Feb 19 - argued by Mr. Lord and Mr. Brewster for Nelson.

Feb 24 - aff'd - Wayne

SUPREME COURT OF THE UNITED STATES.

No. ~~201~~ 21.

CHARLES M. FRY, OVERTON M. PRICE, AND CHAPMAN J. LEIGH, ON BEHALF OF THEMSELVES AND OF CHARLES COLEMAN AND OTHERS, CLAIMANTS OF THE CARGO OF THE BARK "SALLY MAGEE," APPELLANTS.

vs.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

GOVERNMENT PRINTING OFFICE.

- 212 -

1335

SUPREME COURT OF THE UNITED STATES.

No. 201.

CHARLES M. FRY, OVERTON M. PRICE, AND CHAPMAN J. LEIGH, ON BEHALF OF THEMSELVES AND OF CHARLES COLEMAN AND OTHERS, CLAIMANTS OF THE CARGO OF THE BARK "SALLY MAGEE,"

vs.

THE UNITED STATES, APPELLANTS.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

INDEX.

	Original.	Print.
Clerk's certificate	1	1
Order	2	1
Libel	3	1
Stipulation	17	5
Claim	18	6
Stipulation	21	7
Claim	22	8
Stipulation	25	9
Appraisers' report	36	12
Stipulation	38	12
Deposition of William J Brown	49	16
James Smith	50	16
James W. Hall	51	17
Alexander Soule	55	18
Thomas H. Branch	66	22
Michael Martin	80	27
Nathaniel C. Bryant	91	30
Log-book	113	40
Final decree	137	67
Appeal	139	67
Citation	143	68
Bond	145	69
Appeals	149	71

1 UNITED STATES OF AMERICA,
Southern district of New York, ss:

THE UNITED STATES AND CAPTORS IN INTEREST, libellants, appellees,
vs.
THE BARQUE SALLY MAGEE AND HER CARGO, Chas. M. Fry and others, cl'm'ts of cargo, appellants.
} In prize. 16, 356–579.

I, George F. Betts, clerk of the district court of the United States of America for the southern district of New York, do hereby certify that the writings annexed to this certificate are true copies of their respective originals on file and remaining of record in my office.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New [SEAL.] York, this twenty-second day of August, in the year of our Lord one thousand eight hundred and sixty-three, and of the independence of the said United States the eighty-eighth.

GEO. F. BETTS, *Clerk.*

D. D. LORD, *Pr. for cl'm'ts and cargo, appellants.*
D. LORD, *Advocate.*

2 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Saturday, the first day of August, in the year of our Lord one thousand eight hundred and sixty-three.

Present: The Honorable Samuel R. Betts, district judge.

THE UNITED STATES OF AMERICA
vs.
THE BARQUE SALLY MAGEE, &C., AND CARGO.
} 16, 356.

The libellants, by E. Delafield Smith, attorney of the United States for the southern district of New York, file their libel in prize against the said named barque Sally Magee, her tackle, apparel, and furniture and cargo, in the words and figures following, to wit:

3 UNITED STATES OF AMERICA,
Southern district of New York, ss:

DISTRICT COURT, *July Term*, 1861.

To the Honorable Samuel R. Betts, judge of the district court of the United States of America for the southern district of New York:

Be it remembered, that on this ninth day of July, in the year of our Lord one thousand eight hundred and sixty-one, before the Honorable Samuel R. Betts, judge as aforesaid, comes in his own proper person, E. Delafield Smith, esq, attorney of the United States for the said southern district of New York, who prosecutes for the said United States, and also for the officers and crews concerned in the capture hereinafter mentioned in this respect, and in the name and on behalf of the said United States, and of all others concerned as aforesaid, alleges, propounds, and declares as follows, that is to say:

First. That in the State of Virginia, as well as in divers other States of the United States, insurrections have and do now exist against the said United States, and the government thereof, which insurrections are committed and maintained by the authorities of the said State of Virginia, and by many of its citizens, as well as by the authorities of divers other States, and by many of their citizens. That the said authorities and citizens of the

State of Virginia, as well as the said authorities and citizens of divers other States, have formed combinations to oppose the laws of the United States, and obstruct the execution thereof, which said combinations are too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in any marshal of the United States. That the said authorities of the State of Virginia, and many of the citizens of said State, as well as the authorities of divers other States, and many of the citizens thereof, do oppose and obstruct the execution of the laws of the United States. And that the said authorities of the said State of Virginia, and many of the citizens thereof, as well as the authorities, and many of the citizens of divers other States, have levied and do now levy war against these United States, and the government thereof. That the President of these United States has called forth the militia from divers States, and has employed and is employing the land and naval forces of the United States for the purpose of suppressing the said insurrections, combinations, and treasonable levying of war, and causing the laws of the United States to be duly executed. And that hostilities now exist, and did exist at all the time mentioned in this libel between these United Statss and the said insurgent authorities, citizens, traitors, and combinations, and that the existence of such hostilities was and is true, public, and notorious.

Second. That the President of the United States, on the twenty-seventh day of April, anno Domini one thousand eight hundred and sixty-one, under the great seal of the United States, did issue his proclamation that a blockade of the ports of Virginia, among those of other States, would be established.

Third. That among other places the port of Richmond, in the said State of Virginia, was and is blockaded, under and in pursuance of said proclamation, which blockade has been and is actually set on foot and established on or about the thirtieth day of April, A. D. 1861.

4 Fourth. That the barque or vessel Sally Magee, her tackle, apparel, and furniture, and the goods, wares, and merchandise laden on board thereof, were, on the twenty-sixth day of June, 1861, taken and seized on the Atlantic Ocean, off Cape Henry, by the United States steamer Quaker City, under command of Overton Carr, acting under the said proclamation and instructions of the President of the United States.

Fifth. That at the time of the seizure of said barque Sally Magee, as aforesaid, the said barque or vessel Sally Magee having had notice or knowledge of such blockade, was attempting to enter said blockaded port of Richmond, and to violate, and was violating, the said blockade thereof, and so was liable, with the cargo laden thereon, to confiscation and condemnation, and ought to be confiscated and condemned as lawful prize.

Sixth. That at the time of the seizure thereof the Sally Magee, with the cargo laden on board thereof, was the property of residents of said State of Virginia, residing the city of Richmond, and so was liable, with such cargo, to confiscation and condemnation, and ought to be confiscated and condemned as lawful prize.

Seventh. That at the time of the seizure thereof the Sally Magee, with the cargo laden on board thereof, was the property of insurgents, rebels, traitors, and persons engaged in actual hostilities against the government of the United States of Ameriea, and so was liable, with such cargo, to confis-

5 cation and condemnation, and ought to be confiscated and condemned as lawful prize.

Eighth. That the said barque or vessel Sally Magee, her tackle, apparel and furniture, as well as the goods, wares, and merchandise laden therein, were first brought into the port of New York after such seizure as aforesaid, and are now within the jurisdiction of this honorable court.

Ninth. That due proof being made of all the premises, the said attorney,

prays the usual process and monition of this honorable court in this behalf to be made, and that all persons interested in the said barque or vessel called the Sally Magee, her tackle, apparel, and furniture, and the goods, wares, and merchandise laden therein, may be cited in general and special to answer the premises, and all due proceedings being had, that the said barque or vessel called the Sally Magee, her tackle, apparel, and furniture, and the goods, wares, and merchandise laden therein, may, for the causes aforesaid, and others appearing, be condemned by the definitive sentence and decree of this honorable court as forfeited, and adjudged to be
6 lawful prize as aforesaid, to be disposed and distributed according to law.

E. DELAFIELD SMITH,
United States District Attorney.

Endorsed: 16, 356, U. S. district court, southern district of New York. Libel. The United States of America, and all interested as captors, *vs.* the barque Sally Magee, her tackle, apparel, and furniture, and cargo. E. Delafield Smith, U. S. district attorney. Filed July 9, 1861.

7 SOUTHERN DISTRICT OF NEW YORK, *ss:*

The President of the United States of America to the marshal of the southern district of New York greeting:

Whereas a libel hath been filed in the district court of the United States for the southern district of New York, on the ninth day of July, in the year of our Lord one thousand eight hundred and sixty-one, by E. Delafield Smith, esquire, U. S. district attorney, on behalf of the United States of America, against the barque Sally Magee, her tackle, &c., and cargo, for the reasons and causes in the said libel mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said bark, her tackle, &c., and cargo, may be cited in general and special to answer the premises, and all proceedings being had that the said bark, her tackle, &c., and cargo, may for the causes in the said libel mentioned be condemned as forfeited, and adjudged to be lawful prize, to be disposed and distributed according to law:

You are therefore hereby commanded to attach the said brig, her tackle, &c., and cargo, and to detain the same in your custody until the further order of the court respecting the same, and to give due notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned pursuant to the prayer of said libel, that they be and appear before the said court, to be held in and for the southern district of New York, on the twenty-third day of July inst., at eleven o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same, and to make their allegations in that behalf. And what you shall have done in the premises do you then and there make return thereof, together with this writ.

Witness the Honorable Samnel R. Betts, judge of the said court, at the city of New York, in the southern district of New York, this ninth day of July, in the year of our Lord one thousand eight hundred and sixty-one, and of our independence the eighty-fifth.

GEO. F. BETTS, *Clerk.*

E. DELAFIELD SMITH, *U. S. District Attorney.*

8 In obedience to the within monition, I attached the bark Sally Magee and lading, therein described, on the 9th day of July, 1861, and have

given due notice to all persons claiming the same that this court will, on the 23 day of July inst., (if that day should be a day of jurisdiction, if not, on the nextday of jurisdiction thereafter,) proceed to the trial and condemnation thereof, should no claim be interposed for the same.

ROB'T MURRAY, *U. S. Marshal.*

Dated 23 July, 1861.
Filed 23 day of July, 1861.

I hereby depute J. N. Bryer to execute the within process.
Dated July 9, 1861.

ROB'T MURRAY, *U. S. Marshal.*

9 U. S. district court.

UNITED STATES OF AMERICA
ag'st
THE SALLY MAGEE.

SIR: Take notice that on the 17th inst. I shall move that the hatches of this vessel be opened, and the hold ventilated.
16 July, 1861.

Yours, &c.,

D. D. LORD,
Proctor for said motion.

E. DELAFIELD SMITH, Esq., *U. S. Dist. Att'y.*
E. H. OWEN, Esq., H. H. ELLIOTT, *Prize Commissioners.*

Due service of foregoing notice is hereby admitted. July 17, 1861.

E. DELAFIELD SMITH, *U. S. Dist. Att'y,*
By S. L. W., *Ass't.*

10 Endorsed: U. S. dist. court. The United States *vs.* the bark Sally Magee, &c., and cargo. Notice of motion, and admission of service, for order to open hatches and ventilate cargo.
Filed 17th July, 1861.

11 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Wednesday, the seventeenth day of July, in the year of our Lord one thousand eight hundred and sixty-one.

Present: The Honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE BARK SALLY MAGEE, HER TACKLE, &C., AND CARGO.

On motion of Mr. D. D. Lord, of counsel for claimants, and on filing notice and admission of service by the U. S. attorney, it is ordered that the hatches of said vessel be opened, and the cargo ventilated.

12 Filed the 17th day of July, 1861.

13 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Tuesday, the twenty-third day of July, in the year of our Lord one thousand eight hundred and sixty-two.

Present: The Honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE BARK SALLY MAGEE, HER TACKLE, &C., AND CARGO.

Monition returned. Bark Sally Magee and lading attached. Notice given. Proclamation made.

Mr. D. D. Lord appears and files claim of Alexander Soule, on behalf of owners of vessel, and of C. M. Fry & Co., on behalf of owners of 473 bags of coffee, 1,450 bags of coffee, 1,529 bags of coffee, 10 half barrels of tapioca.

This cause is placed on the calendar for the present term.

Ordered, that the sealed papers in the above cause be opened.

14 Filed the 23d day of July, 1861.

15 In the district court of the United States of America for the southern district of New York.

The claim of Alexander Soule, on behalf of David Currie, William Currie, George Allen, Isaac Davenport, jr., Robert Edmund, and James H. Blair, to the barque Sally Magee now in custody, proceeded against by the United States of America as prize respectfully showeth, that they are and at the time of the capture of the said barque were and ever since have been the true and only owners of the said vessel, her tackle, apparel, and furniture, and if the said barque shall be restored, it will belong to them and to no other persons, and that they are all citizens of the United States of America.

And the claimants deny that the said barque, her tackle, apparel, and furniture, were or have been at any time in the libel mentioned subject or liable to seizure, capture, or condemnation, and they pray that the same be restored to them, with costs and damages for or on account of the said seizure.

D. D. LORD, *Proctor for Claimants.*

16 SOUTHERN DISTRICT OF NEW YORK, *ss:*

Alexander Soule, master of the barque Sally Magee, being sworn, saith that he was at the time of the sailing of the said ship on her last voyage, and at the time of her capture, master of the said vessel, and that he knows the citizenship and ownership of the owners of the said barque from correspondence, and the same will appear from the registers of the said vessel or the certificate thereof; and that the said owners of the said barque do not reside within this district and have not been here since the said capture.

ALEXANDER SOULE.

Sworn the 23d day July, 1861.

JOHN S. OSBORN, *U. S. Com'r.*

Endorsed: 16, 356. United States *vs.* the barque Sally Magee and cargo. Claim of master. D. D. Lord, proctor.
Filed July 23, 1861.

17 District court of the United States for the southern district of New York.

Stipulation entered into pursuant to the rules and practice of this court, filed the 23d day of July, 1861.

Whereas a libel was filed in this court on the 9th day of July, in the year of our Lord one thousand eight hundred and sixty-one by E. Delafield

Smith, U. S. district attorney, on behalf of the United States, against, the bark Sally Magree, her tackle, &c., and cargo, for the reasons and causes in the said libel mentioned, and praying that bark, her tackle, &c., and cargo, may be condemned and forfeited as a lawful prize, to be disposed of distributed according to law, and the parties hereto hereby consenting that in case of default or contumacy on the part of the claimants or their sureties execution for the sum of two hundred and fifty dollars may issue against their goods, chattels, and lands ; and whereas, also, a claim has been filed in said cause by David Currie, Wm. Currie, and others :

Now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be, and each of them is hereby, bound in the sum of two hundred and fifty dollars, conditioned that the claimants above named shall pay all costs and expenses which shall be awarded against them by the final decree of this court, or, upon an appeal, by the appellate court.

ALEXANDER SOULE.
OVERTON M. PRICE.

Taken and acknowledged this 23d day of July, 1861, before me.
GEO. W. MORTON, *U. S. Commissioner.*

SOUTHERN DISTRICT OF NEW YORK, *ss* :

Overton M. Price, party to the above stipulation, being duly sworn, doth depose and say that he resides in the city of New York, and that he is worth the sum of five hundred dollars over and above all his just debts and liabilities.

OVERTON M. PRICE.

Sworn to this 23d day of July, 1861, before me.
GEO. W. MORTON, *U. S. Commissioner.*

Recorded the 23d day of July, 1861.

GEO. F. BETTS, *Clerk.*

18 In the district court of the United States of America for the southern district of New York.

The claims of Charles M. Fry, Overton M. Price, and Chapman J. Leigh, composing the firm of C. M. Fry & Co., to fifteen hundred and twenty-nine bags coffee, marked E D, and ten half barrels tapioca, part of the cargo of the barque Sally Magee, now in custody, &c., and proceeded against as prize by the United States of America, respectfully showeth, that the firm of Charles Coleman & Co., of Rio de Janeiro, in the kingdom of Brazil, as ~~proctors~~ and commission merchants there residing, were and had been directed to purchase and ship for the account and to the consignment of Edmund Davenport & Co., coffee, if procurable, at not over ten cents and half per pound.

That the said Charles Coleman & Co., did make the shipment of the cargo above claimed to the consignment of Edmund Davenport & Co., in the said ship, but that by the invoice thereof it appears that the said purchase was not made at or within the said limit of price, whereby and for which cause the said Edmund Davenport & Co. refused to receive the same as purchased
19 for their account, or otherwise than on the account of the said shippers thereof, namely Charles Coleman & Co., and as agents of necessity for them. And the said Edmund Davenport & Co. have authorized the firm of C. M. Fry & Co. to receive the same in their place and behalf as aforesaid.

And these claimants say that the said cargo by them claimed doth and if restored will belong to the parties in this behalf mentioned, according to their interests and rights aforesaid, and that the firm of Charles Coleman & Co. is comprised of Charles Coleman and James R. Jackson, subjects of the queen of Great Britain, residing at Rio de Janerio, in the empire of Brazil, as the claimants believe, and the said firm of Edmund Davenport & Co. of Robert Edmund, Isaac Davenport, junior, and James H. Blair, all citizens of the United States of America.

And the claimants say that the said merchandise was not subject to seizure, capture or condemnation as prize for any cause whatever.

Wherefore the claimants pray that the said merchandise be restored to them with costs and damages.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Overton M. Price, of the firm of C. M. Fry & Co., saith that the facts stated in the preceeding claim are stated of his own knowledge as to the residence and citizenship of the parties, and as to the other facts from
20 the correspondence of the parties which he believes to be true, and that the other parties, excepting his own firm, do not reside within this district, and have not been here since the capture of the said vessel.

OVERTON M. PRICE.

Sworn this 23d day of July, 1861, before me.

JOHN S. OSBORN, *U. S. Com'r.*

Endorsed: 16, 356. U. States *vs.* the Sally Magee and cargo, 1,527 bags coffee, 10 h'lf bbls. tapioca. Claims of C. M. Fry & Co. D. D. Lord, proctor.

Filed July 23, 1861.

21 District court of the United States, for the southern district of New York.

Stipulation entered into pursuant to the rules and practice of this court, filed the 23d day of July, 1861.

Whereas a libel was filed in this court on the ninth day of April, in the year of our Lord one thousand eight hundred and sixty-one by E. Delafield Smith, U. S. dist. att'y, on behalf of the United States, against the bark Sally Magee, her tackle, &c., and cargo, for the reasons and causes in the said libel mentioned, and praying that said vessel and cargo may be condemned and forfeited as lawful prize, to be disposed of and distributed according to law, and the parties hereto hereby consenting that in case of default or contumacy on the part of the claimants or their sureties, execution for the sum of two hundred and fifty dollars may issue against their goods, chattels, and lands; and whereas, also, a claim for part of the cargo of said vessel has been filed in said cause by Charles M. Fry and another:

Now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be, and each of them is hereby, bound in the sum of two hundred and fifty dollars, conditioned that the claimants above named shall pay all costs and expenses which shall be awarded against them by the final decree of this court, or, upon an appeal, by the appellate court.

C. M. FRY & CO.,
By O. M. PRICE.
THOMAS A. PATTERSON.

Taken and acknowledged this 23d day of July, 1861, before me.

GEO. W. MORTON, *U. S. Commissioner.*

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Thomas A. Patterson, party to the above stipulation, being duly sworn, doth depose and say that he resides in the city of New York, and that he is worth the sum of five hundred dollars over and above all his just debts and liabilities.

THOMAS A. PATTERSON.

Sworn to this 23d day of July, 1861, before me.
GEO. W. MORTON, *U. S. Commissioner.*

Recorded the twenty-third day of July, 1861.
GEO. F. BETTS, *Clerk.*

22 In the district court of the United States for the southern district of New York.

The claim of Charles M. Fry, Overton M. Price, and Chapman J. Leigh, on behalf of themselves and Dunlop, Moncure & Co., hereinafter named, to four hundred and seventy-three bags coffee marked X, and fourteen hundred and fifty bags marked D M, of the cargo of the barque Sallie Magee, in custody, &c., proceeded against as prize by the United States of America, sheweth, that the said coffee was shipped at Rio Janeiro, in Brazil, consigned to the firm of Dunlop, Moncure & Co., consisting of James Dunlop, Henry W. Moncure and Thomas W. McCance, citizens of the United States of America, and that at the time of the arrival of the said vessel at this port they were liable to these claimants, under the firm of C. M. Fry & Co., of New York, in the sum of thirty-five thousand three hundred and twenty-six dollars and upwards, for acceptances and advances of money, agreed to be made, and actually made, in good faith, which last-mentioned firm are citizens of the United States of America, and that the latter firm were directed and authorized to receive the said coffee, and take charge of the same, and to sell the
23 same, and apply the proceeds thereof, so far as needed, towards the payment of their said demand, and to hold the surplus for account of the said Dunlop, Moncure & Co.; and the said coffee, if restored, will belong to these claimants on account of themselves, and the said Dunlop, Moncure & Co., and no other person or persons.

And the claimants say that the said merchandise was not subject or liable to seizure, capture, or condemnation for any cause whatever, and they pray restitution of the same with costs and damages.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Overton M. Price, of the city of New York, being sworn, saith that he is one of the firm of C. M. Fry & Co., and states of his own knowledge the citizenship of the parties, and the said indebtedness, and states the other facts from correspondence with the firm of Dunlop, Moncure & Co., and copies of invoices of the cargo, and believes the same to be true, and that the other parties named have not been within this district since the capture of the said vessel and cargo.

OVERTON M. PRICE.

Sworn to before me this 25th day of July, 1861.
JOHN A. OSBORN, *U. S. Com.*

24 Endorsed: 16,356; United States *vs.* the Sally Magee and cargo; claim of C. M. Fry & Co., 473 bags coffee, 1,450 bags coffee; D. D. Lord, proctor. Filed July 23, 1861.

25 District court of the United States for the southern district of New York.

Stipulation entered into pursuant to the rules and practice of this court, filed the 23d day of July, 1861.

Whereas a libel was filed in this court on the 9th day of July, in the year one thousand eight hundred and sixty-one, by E. Delafield Smith, U. S. dist. att'y, in behalf of the United States, against the bark Sally Magee, her tackle, &c., and cargo, for the reasons and causes in the said libel mentioned, and praying that said vessel and cargo be condemned, and forfeited as lawful prize, to be disposed of and distributed according to law, and the parties hereto hereby consenting that in case of default or contumacy on the part of the claimants or their sureties, execution for the sum of two hundred and fifty dollars may issue against their goods, chattels, and lands; and whereas, also, a claim has been filed in said cause by Cha's M. Fry and others, for themselves and Dunlop Moncure:

Now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be, and each of them is hereby, bound in the sum of two hundred and fifty dollars, conditioned that the claimants above named shall pay all costs and expenses which shall be awarded against them by the final decree of this court, or, upon an appeal, by the appellate court.

C. M. FRY & CO.,
By O. M. PRICE.
THOMAS A. PATTERSON.

Taken and acknowledged this 23d day of July, 1861, before me.
GEO. W. MORTON, *U. S. Commissioner.*

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Thomas A. Patterson, party to the above stipulation, being duly sworn, doth depose and say that he resides in the city of New York, and that he is worth the sum of five hundred dollars over and above all his just debts and liabilities.

THOMAS A. PATTERSON.

Sworn to this 23d day of July, 1861, before me.
GEO. W. MORTON, *U. S. Commissioner.*

Recorded the 23d day of July, 1861.

G. F. BETTS, *Clerk.*

26 District court.

THE UNITED STATES OF AMERICA
vs.
THE BARK SALLY MAGEE AND HER CARGO, 473 BAGS coffee marked X, 1,450 bags coffee marked D M, 1,529 bags coffee marked E D, 10 half barrels tapioca, C. M. Fry & Co., claimants, as agents.

The petition of the claimants, C. M. Fry & Co., respectfully sheweth that the cargo of coffee and the parcel of tapioca claimed by them, and part of the cargo of the barque Sally Magee, from the heat of the season, the length of time since it was shipped at Rio de Janeiro, and the nature of the merchandise, is taking damage from its not being discharged, and its long detention in the hold of the vessel, and is perishable and perishing. They

therefore pray that under the rules of this court the same may be ordered to be unladen and its value appraised, to the end that the same may be delivered to the claimants on giving bail therefor.

Dated July 24, 1861.

OVERTON M. PRICE.

Sworn this 24th day of July, A. D. 1861.

EDWIN F. COREY, *Notary Public.*

27 SOUTHERN DISTRICT OF NEW YORK, *ss:*

Moses Webb, of the city of New York, merchandise and produce broker, saith that he is acquainted with the merchandise mentioned within, and that the statement within of the perishing and perishable nature of the cargo is true.

MOSES WEBB.

Sworn to July 24, 1861, before me.

EDWIN F. COREY, *Notary Public.*

Endorsed: 16,356; the United States *vs.* the barque Sally Magee and cargo; petition for appraisal and bonding; D. D. Lord, proctor. Filed July 24, 1861.

28 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Wednesday, the twenty-fourth day of July, in the year of our Lord one thousand eight hundred and sixty-one.

Present: the Honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE BARK SALLY MAGEE, HER TACKLE, &C., AND CARGO.

On filing petition and jurat of Overton M. Price, with the affidavit of Moses Webb, merchandise and produce broker, annexed thereto, and on motion of Mr. Lord, proctor for the claimants, C. M. Fry & Co., the U. S. district attorney appearing and objecting thereto, it is ordered that the cargo of coffee, &c., on board said vessel, consisting of the following merchandise, viz: 473 bags of coffee marked X, 1,450 bags of coffee marked D M, 1,529 bags of coffee marked E D, and 10 half barrels of tapioca, C. M. Fry & Co., claimants, as agents, be unladen and its value appraised, to the end that the same may be delivered to the claimants, on giving bail therefor, and that Moses Webb be, and he is hereby, appointed sole appraiser to appraise the value of the above-described merchandise. And it is further ordered that the clerk of this court give notice of the appointment of the said Moses
29 Webb as such sole appraiser.

Filed the 24th day of July, 1863.

29½ United States district court, southern district of New York, in admiralty.

THE UNITED STATES
vs.
THE BARK SALLY MAGEE, HER TACKLE, &C., AND CARGO.

I, the undersigned, having been appointed sole appraiser to appraise the value of 473 bags coffee marked "X," 2,450 bags coffee marked "D M," 1,529 bags coffee marked "E D," and 10 half barrels tapioca, C. M. Fry & Co.,

claimants, as agents, do solemnly swear that I will faithfully appraise the same to the best of my skill and ability.

MOSES WEBB.

Subscribed and sworn to this 24th day of July, 1861, before me.

GEO. W. MORTON, *U. S. Com'r.*

Filed July 24, 1861.

29¾ U. S. district court.

THE UNITED STATES
vs.
THE BARK SALLY MAGEE, HER TACKLE, &C.

I hereby consent that the order entered in this cause on the 24th inst., directing the appraisement of quantity of coffee of the cargo of the said vessel, and appointing Moses Webb appraiser thereof, may be amended by striking out the name of Moses Webb and inserting instead the name of William Scott.

New York, July 27, 1861.

D. LORD, *for claimants.*
E. DELAFIELD SMITH,
By S. L. W., *Ass't U. S. Dist. Att'y.*

Endorsed: U. S. district court. The United States *vs.* the bark Sally Magee, &c. Filed July 27th, 1861.

30 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Saturday, the twenty-seventh day of July, in the year of our Lord one thousand eight hundred and sixty-one.

Present: The Honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE BARK SALLY MAGEE, &C., AND CARGO.

On reading and filing consent of the U. S. district attorney and proctor for claimants, it is ordered that the order entered in this cause on the 24th instant directing appraisement of a quantity of coffee, be amended by striking out name of Moses Webb as appraiser and inserting instead the name of William Scott as such appraiser.

31 Filed the 27th day of July, 1861.

32 United States district court, southern district of New York, in admiralty.

THE UNITED STATES
vs.
THE BARK SALLY MAGEE, HER TACKLE AND CARGO.

I, the undersigned, having been appointed appraisers to appraise the value of 473 bags coffee marked "X," 1,450 bags coffee marked "D M," 1,529 bags coffee marked "E D," and 10 half barrels tapioca, C. M. Fry & Co., claimants, as agents, do solemnly swear that I will faithfully appraise the same to the best of my skill and ability.

WM. SCOTT.

Subscribed and sworn to this 29th day of July, 1863, before me.

GEO. W. MORTON, *U. S. Com'r.*

33 Filed 29th July, 1861.

34 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms in the city of New York, on Monday, the twenty-ninth day of July, in the year of our Lord one thousand eight hundred and sixty-one.

Present: The Honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE BARK SALLY MAGEE, &c., AND CARGO.

On motion of Mr. Lord, for the claimants, Mr. Woodford, assistant attorney of the United States, consenting thereto, it is ordered that the samples of cargo be submitted by the marshal to the appraiser appointed to appraise the cargo.

35 Filed the 29th day of July, 1861.

36 United States district court, southern district of New York, in admiralty.

THE UNITED STATES
vs.
THE BARK SALLY MAGEE, HER TACKLE, &C., AND CARGO.

I, the undersigned, having been duly appointed and sworn as appraisers to appraise the value of the cargo of the bark Sally Magee, from Rio de Janeiro, do report that thirty-four hundred and fifty two bags Rio coffee is of the value of sixty-nine thousand and forty dollars, and the value of ten half bbls. of tapioca is one hundred and forty dollars, and do find that the entire cargo is worth the sum of sixty and nine thousand one hundred and eighty doll's.

Dated New York, 30th July, 1861.

All which is respectfully submitted.

WM. SCOTT.

37 Filed July 30, 1861.

38 District court of the United States for the southern district of New York, in admiralty.

Stipulation entered into pursuant to the rules and practice of this court, filed 31*st day of July,* 1861.

Whereas a libel was filed on the ninth day of July, in the year of our Lord one thousand eight hundred and sixty-one, by E. Delafield Smith, U. S. dist. attorney, in behalf of the United States, against the barque Sally Magee, her tackle, apparel, and furniture and cargo, for the reasons and causes in the said libel mentioned; and whereas the said barque, her tackle, &c., and cargo are in the custody of the marshal under the process issued in pursuance of the prayer of said libel; and whereas 3,452 bags Rio coffee and ten half bbls. of tapioca, the cargo of said vessel, have been appraised at sixty-nine thousand one hundred and eighty dollars, as appears from said appraisement now on file in said court, and the parties hereto hereby consenting and agreeing that in case of default or contumacy on the part of the claimants or their sureties, execution for the above amount may issue against their goods, chattels, and lands:

Now, therefore, the condition of this stipulation is such that if the stipulator undersigned shall at any time, upon the interlocutory or final order or decree of the said district court, or of any appellate court to which the above-named suit may proceed, and upon notice of such order or decree to

D D. Lord, esquire, proctor for the claimants of said cargo, abide by and pay the money awarded by the final decree rendered by the court or the appellate court if any appeal intervene, then this stipulation to be void; otherwise, to remain in full force and virtue.

C. M. FRY, *Co.*
By C. M. FRY.
CHARLES M. FRY.
RICH'D IRVIN.

Taken and acknowledged this 31st day of July, 1861, before me.
GEO. W. MORTON, *U. S. Commissioner.*

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Charles M. Fry and Rich'd Irvin, parties to the above stipulation, being duly sworn, depose and say, and each for himself doth say, that he resides in the city of New York, and that he is worth the sum of one hundred and thirty-eight thousand three hundred and sixty dollars over and above all his just debts and liabilities.

CHARLES M. FRY.
RICH'D IRVIN.

Sworn to this 31st day of July, 1861, before me.
GEO. W. MORTON, *U. S. Commissioner.*

39 U. S. district court.

THE UNITED STATES
vs.
THE SALLY MAGEE, HER CARGO, &c., COFFEE AND TAPIOCA. Fry & Co., claimants.

I consent that stipulations having this day been filed and executed by Charles M. Fry and Richard Irvin, in accordance with the rule and practice of this court, an order may be entered for the delivery to C. M. Fry & Co., claimants of 473 bags coffee marked "X," and 1,460 bags coffee marked "D M," and 1,529 bags coffee marked "E D," and 10 half barrels of tapioca, on their producing the proper permits from the collector of customs.

July 31, 1861.

E. DELAFIELD SMITH, *U. S. Dist. Att'y,*
By S. L. W., *Ass't.*

Moved by D. Lord for cl'ts.

Endorsed: U. S. dist. court. The United States *vs.* the bark Sally Magee and cargo. Consent. Filed July 31, 1861.

40 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Wednesday, the 31st day of July, in the year of our Lord one thousand eight hundred and sixty-one.

Present: The Honorable Samuel R. Betts, district judge.

THE UNITED STATES, &c.,
vs.
THE BARK SALLY MAGEE, &c., AND CARGO.
} Vol. 16, page 386.

On filing consent of the U. S. district attorney, and on motion of Mr. Lord, proctor for the claimants, C. M. Fry & Co., it is ordered that 473 bags coffee marked X; 1,450 bags coffee, marked D M, and 1,529 bags coffee marked E D, and 10 half barrels tapioca, be discharged from custody, and delivered to C. M. Fry & Co, the claimants thereof on their producing the proper permits from the collector of the customs. Stipulations having this day been

filed and executed by Charles M. Fry and Richard Irvin, in accordance with the rules and practice of the court, and the costs of the clerk, commissioner, and marshal having been paid into the registry of the court up to the time of executing such stipulations.

41 Filed the 31st day of July, 1861.

42 District court of the United States in the southern district of New York.

THE UNITED STATES, &c.,
vs.
THE SALLY MAGEE AND HER CARGO.

The petition of intervention of Overton Carr, commander, and the officers and crew of the United States vessel-of-war Quaker City, respectfully represents that they were the naval captors of the prize sent in for adjudication herein by this honorable court, and as such have an equal interest with the libellants in such adjudication; that all and singular the facts in the libel herein set forth and contained are true and correct, and they join in the prayer thereof for a decree of condemnation of said captured property as lawful prize of war. And they further pray that after such decree of condemnation shall have been duly ordered, and said property shall have been sold pursuant thereto, that this honorable court will then proceed to decree a distribution of the proceeds of said sale in the proportions and in the manner prescribed by law, upon the report of the prize commissioners of this court, setting forth the lawful distributees of said proceeds, and the

43 testimony produced before them as the bonds of such distribution.

F. H. UPTON,
Proctor for the intervenors and naval captors.

Endorsed. District court of the United States. The United States, &c., *vs.* the Sally Magee and her cargo. Intervention of naval captors. F. H. Upton, proctor.
Filed Sept. 3, 1861.

U. S. district court.

THE UNITED STATES, &c.,
vs.
THE BARK SALLY MAGEE AND HER CARGO TAKEN AS PRIZE.

SIR: Please take notice that on the report of the U. S. prize commissioners and the affidavit thereto annexed, copies of which are herewith served upon you, I shall apply to the Honorable Samuel R. Betts, judge of the district court for this district, on Wednesday, the 21st day of May instant, at 11 o'clock in the forenoon, or as soon thereafter as I can be heard,

44 for an order directing the sale of the vessel herein, and for such other and further order as to the court shall seem just and proper.

Dated New York, May 19th, 1862.

Yours, &c. E. DELAFIELD SMITH,
U. S. Dist Att'y.

To D. D. LORD, Esq., *Proctor for clm'ts.*

United States district court.

THE UNITED STATES, &c.,
vs.
THE BARQUE SALLY MAGEE AND HER CARGO TAKEN AS PRIZE.

To the Honorable Samuel R. Betts, judge of the district court of the United States within and for the southern district of New York:

The undersigned, prize commissioners of said district, respectfully report

to this court that in pursuance of an act of Congress, entitled "An act to facilitate judicial proceedings in adjudication upon captured property, and for the better administration of the law of prize, "passed March 25th, 1862, they have examined into the situation and condition of the aforesaid vessel, in order to ascertain if the same is perishing or perishable and deteriora-
45 ting in value. That as appears by the ship's papers found on board at the time of capture, and from the depositions taken in preparatorio, all which are on file in the office of the clerk of this court, the said vessel sailed from Rio de Janeiro, in the month of May last, with a cargo on board consisting mainly of coffee, and was captured off Cape Henry, on the 26th day of June, and brought into this district, where the same arrived in the month of July last, and was taken by the marshal into his custody under process issued out of this court, and have ever since remained in his custody; that the cargo thereof has been discharged from custody upon stipulations given for its appraised value. That the vessel is lying at Gowanus Creek, in Brooklyn, and is and has been ever since her arrival, subject to charges for wharfage and keeper's fees, &c., &c. That, as far as can be ascertained, there is no insurance on the said vessel which will enure in case of loss to the benefit of the captors, so that there is a risk and danger of loss by fire as well as by marine perils. That the expenses for wharfage, keeper's fees, and otherwise connected with the custody and safe-keeping of the vessel are large and daily
46 increasing. That she has clearly sustained injuries to some extent, and is deteriorating in value, as will appear by the affidavits hereto annexed. Under all the circumstances of this case, the commissioners are of the opinion that the property is deteriorating in value, and that it is for the best interest of the parties concerned to have the same sold under an interlocutory order of this court, and the proceeds brought into court as provided for by the act above referred to. All of which is respectfully submitted.

New York, May 17, 1862.

E. H. OWEN.
HENRY H. ELLIOTT.

U. S. district court.

THE UNITED STATES
vs.
THE BARQUE SALLY MAGEE, &C., TAKEN AS PRIZE.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Thomas P. Stanton, being duly sworn, deposes and says that for upwards of thirty years he has been engaged as a shipping and commission merchant at the city of New York, and has during that period bought and sold vessels, and has examined and appraised vessels, both in such business and under appointments from this court, and that he is acquainted with
47 vessels. That on the 10th of May, 1862, at the request of the prize commissioners, he examined the above-named vessel, which is lying at Gowanus Creek, and found that the said vessel leaks in her bottom and upper works; that her rigging is injured by exposure to the weather, and that she is without proper care; that such injuries are liable to continue, and to be increased; that the expenses of wharfage and keeper's fees and other expenses connected with the custody of the vessel are already great and are daily accumulating, and that the said vessel is depreciating in value; that it is in his opinion for the interest of all parties interested that the vessel should be sold.

THOS. P. STANTON.

Subscribed and sworn to before me this 16th day of May, 1862.
[SEAL.] JOSEPH H. GRAY, *Notary Public.*

Endorsed. 16, 579, 356. U. S. district court. The United States *vs.* the barque Sally Magee, &c., taken as prize. Prize commissioners' report, and notice of motion.

Due service of a copy of within papers is admitted.

N. Y., May 19, 1862. D. D. LORD, *Proctor for clm'ts.*

48 District court of the United States, southern district of New York.

THE UNITED STATES
vs.
THE BARQUE SALLIE MAGEE, &c.

To the Honorable Samuel R. Betts, judge of the district court of the United States within and for the southern district of New York:

The undersigned, prize commissioners for the said district, respectfully report to this court that in pursuance of an order made herein on the 21st day of May, 1862, they have examined into the value of the above-named barque Sallie Magee, and they have caused the same to be appraised by experts, whose affidavits are hereto annexed, (having first given the notice of the time and place of such appraisal as required by the said order, which notice is also hereto annexed,) and they accordingly report that they have appraised the said barque, including her sails, tackle, and apparel, at the sum of six thousand three hundred dollars ($6,300.) All of which is respectfully submitted.

New York, May 27th, 1862.

E. H. OWEN.
HENRY H. ELLIOTT.

49 U. S. district court.

THE UNITED STATES
vs.
THE BARQUE SALLIE MAGEE, &c.

Please to take notice that we shall attend at the Gowanus Bay, in the city of Brooklyn, on the 26th day of May instant, at 2 o'clock in the afternoon, and shall then and there proceed to appraise the above-named vessel, and shall continue the same from day to day until the same is completed.

Dated New York, May 23d, 1862.

Yours, &c., E. H. OWEN,
HENRY H. ELLIOTT, *Prize Comm'rs.*

To D. D. LORD, Esq., *Clt's proctor.*

SOUTHERN DISTRICT OF NEW YORK, *ss:*

William J. Brown, being duly sworn, says that he did, on the 23d day of May, 1862, serve a copy of the foregoing notice upon D. D. Lord, esq., therein named, by delivering a copy to and leaving the same with a person in charge of his office, at No. 45 Exchange Place, in the city of New York, during the usual business hours of the said day; that the said D. D. Lord, esq., was then absent from his said office.

W. J. BROWN.

Sworn to before me May 24, 1862.

50 [L. S.] JOSEPH H. GRAY, *Notary Public.*

U. S. district court.

THE UNITED STATES
vs.
THE BARQUE SALLIE MAGEE, &c.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

James Smith, being duly sworn, says that he is, and for a number of

years has been, a shipping merchant at New York City, and has bought and sold, and owned, and still owns interests in a number of vessels, and is well acquainted with vessels and their values; that on the 26th day of May, 1862, at the request of the prize commissioners of this district, deponent went to Gowanus Bay, where the said vessel, Sallie Magee, is lying, to examine and appraise the same; that the said vessel is in a fair condition; is of about 280 tons burthen; about 4 to 5 years old; that she was built for the Rio trade, and is a good vessel for that trade; that in deponent's opinion she is worth, including her sails, tackle, and apparel, the sum of six thousand three hundred dollars, and he therefore appraises her at that sum.

JAMES SMITH.

Sworn to before me May 27th, 1862.

JOSEPH H. GRAY, *Notary Public.*

51 U. S. district court.

THE UNITED STATES
vs.
THE BARQUE SALLIE MAGEE, &c.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

James W. Hale, being sworn, says that he was, for a number of years, a shipmaster, and is well acquainted with vessels and their values; that on the 26th day of May, 1862, at the request of the prize commissioners of this district, deponent examined the above-named vessel at Gowanus Bay, in Brooklyn, where she was then lying; that he found the said vessel in fair condition, but was very badly chafed in her fore rigging and various parts of her hull; has one suit of sails in good order, and rates A 1½; that she was built at Baltimore in 1857, and is a little under 300 tons burthen, and draws 12 feet of water, and is a single deck vessel; that in deponent's opinion she is worth, including sails and apparel, the sum of six thousand three hundred dollars, and he appraises the same at that sum.

JAS. W. HALE.

Sworn to before me May 27th, 1862.

[L. S.] JOSEPH H. GRAY, *Notary Public.*

Endorsed: 16, 529. U. S. district court The United States *vs.* the barque Sally Magee, &c., taken as prize. Prize commissioners' report on value of vessel.

Filed May 27th, 1862.

52 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Wednesday, the twenty-first day of May, in the year of our Lord one thousand eight hundred and sixty-two.

Present: The Honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE BARQUE SALLIE MAGEE, TACKLE, &C., AND CARGO.

On reading and filing report of the prize commissioners, with affidavit of Thomas P. Stanton, notice of motion and admission of service of copies thereof, and after hearing advocates for respective parties, it is ordered that the vessel herein be appraised by the said prize commissioners upon their

giving two days' notice thereof to the proctor for the claimants; that after such appraisement has been made, and filed with the clerk of this court, the said vessel be sold by the marshal, under the superintendence and direction of the prize commissioners; that the marshal receive the purchase-moneys, make a proper return of the sale, and pay the gross proceeds into the registry of the court; that all charges and claims of whatsoever kind, shall be presented to the court, to be passed upon by the court before payment thereof.

A true copy.

GEO. F. BETTS, *Clerk.*

53 Due service of an order of which the within is a copy is hereby admitted.

Dated May 22d, 1862.

E. H. OWEN.
ROB'T MURRAY, *U. S. Marshal.*
D. D. LORD, *Proctor for Cl'm'ts.*
C. M. FRY.

Filed May 24, 1862, (as to proof of service.) Filed the 21st day of May, 1862.

54 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Wednesday, the first day of July, in the year of our Lord one thousand eight hundred and sixty-three.

Present: The Honorable Samuel R. Betts, district judge.

THE UNITED STATES OF AMERICA
vs.
THE BARQUE SALLY MAGEE, &C., AND CARGO. } 16, 356.

The U. S. district attorney moves the hearing of the above-entitled cause, reads pleadings, states facts, &c., and moves for the condemnation of the vessel and cargo as lawful prize of war.

Mr. D. D. Lord appears for the claimants of vessel and cargo.

Papers submitted. C. A. V.

Briefs by respective counsel to be handed in within 10 days from this date.

55 District court of the United States for the southern district of New York.

Deposition of Alexander Soule, captain of barque Sally Magee, a witness produced, sworn, and examined in preparatorio, on the 30th day of July, in the year eighteen hundred and sixty-one, at the office of the prize commissioner, 39 Chambers st., New York, on the standing interrogatories established by the district court of the United States for the southern district of New York; the said witness having been produced for the purpose of such examination by the captors, in behalf of the captors of a certain ship or vessel called the "Sally Magee" and cargo.

1. To the first interrogatory deponent says: I was born in the State of Maine; Richmond, Virginia, is my present residence; I have lived there six years. I am a citizen of the United States; I owe allegiance to the United States. I am married; my wife and family reside in Richmond, Virginia.

2. To the second interrogatory deponent says: I was present at the capture of the "Sally Magee."

56 3. To the third interrogatory deponent says: The capture was made twelve miles southeast of Cape Henry, on the 27th day of June, 1861; I was carried into Hampton Roads. She had no commission authorizing her to make prizes. I do not know for what reason or on what pretence the seizure was made.

4. To the fourth interrogatory deponent says: I sailed under United States colors; she carried no other colors except one Brazilian flag.

5. To the fifth interrogatory deponent says: There was no resistance made at the time of the capture; there was no guns fired. The capture was made by the "Quaker City," Captain Carr. There were no ships in sight at the time of the capture. The captured vessel is a merchant vessel. She belongs to David and William Curry, of Richmond, and other merchants residing in Richmond. The capturing vessel is a ship of war; I do not know her force.

6. To the sixth interrogatory deponent says: I do not know whether the capturing vessel had any commission to act in the seizure or not. The capture was made by the Quaker City; she has not been condemned.

57 7. To the seventh interrogatory deponent says: The name of the vessel taken is the "Sally Magee;" her captain's name is Alexander Soule; he was appointed captain by David and William Curry, at Richmond. I have known the vessel three years; I took possession of her Nov. 2, 1859, at Richmond; she was delivered to me by David and William Curry. My fixed place of abode is Richmond, and that of my wife and family; I have lived there six years. I was born in Brunswick, Maine, and am a subject or citizen of the United States.

8. To the eighth interrogatory deponent says: The tonnage of the vessel is two hundred and seventy-nine tons. The vessel's company when seized was nine, all told; on the articles they are all Americans; they are all negroes except the mate, who is a Virginian; they all came on board at Richmond at the same time, except one; I shipped in at Rio; they were shipped by me.

9. To the ninth interrogatory deponent says: I belonged to the captured vessel at the time of her seizure, and was captain. I have no interest, nor had any of the ship's company any interest in the vessel or barge.

58 10. To the tenth interrogatory deponent says: I have known the vessel three years. I first saw her at Hampton Roads about three years ago. She carried no guns. There were nine men on board when she was captured. She was built in Baltimore. Her name is "Sally Magee;" she had been so called ever since she was built; she never had any other name.

11. To the eleventh interrogatory deponent says: She was bound to Richmond, Virginia, when seized; the voyage began at Richmond, and was to have ended in a port or ports of the United States, as shown by my articles. Her cargo out of Richmond was flour and cotton goods, and her present lading is coffee and tapioca. The present cargo was put on board in May, 1861. Her last cargo, prior to this, was flour, carried to Rio; and coffee brought back to Richmond. She has not carried goods contraband of war or prohibited by law.

12. To the twelfth interrogatory deponent says: The had no passport or sea-brief, except her register. She sailed from Richmond to Rio, and was bound back to Richmond. The voyage began at Richmond, and was to have ended at port or ports in the United States. She has carried principally flour on her outward voyages, and coffee on her return. She sailed for her last clearing port on the 12th day of May last.

59 13. To the 13th interrogatory deponent says: She carried, on first setting out on her last voyage, flour and cotton goods, and had, when

taken, coffee and tapioca. This was put on board in May last, and consisted of 3,452 bags of coffee and ten half barrels of tapioca.

14. To the fourteenth interrogatory deponent says: The owners at the time of her capture were David and William Curry, and other merchants in Rich mond. I know they were owners from the register. They are, I think, Virginians, or Scotch, and live in Richmond, Virginia. I do not know how long they have lived there. I do not know where they resided previously. I do not know of what country or state they are citizens or subjects.

15. To the fifteenth interrogatory deponent says: I do not know of any bill of sale of the vessel at any time, and I know of no engagement relative to the purchase of the vessel.

16. To the sixteenth interrogatory deponent says: The lading found on board when captured was put on board at Rio, on the 12 of May last. The names of the laders were Charles Coleman & Co., and consigned to Edmund Davenport & Co., and Dunlop, Moncure & Co. They are Americans. They resided—the laders in Rio, and the consignees in Richmond. I do not know for whose account and risk the shipment was made. The cargo was to be delivered in Richmond. The qualities I know nothing about.
60 The quantity was 3,452 bags coffee and ten half barrels of tapioca. I know nothing about who they will belong to if restored.

17. To the 17th interrogatory deponent says: There were six or eight bills of lading signed. They were not false or colorable, but are honest and true; and there were none signed different in any respect from those taken.

18. To the 18th interrogatory deponent says: There were no other bills of lading or any other writings of any kind to my knowledge, except those delivered to the captors.

19. To the 19th interrogatory deponent says: She was captured about latitude 36° 52′ and longitude about 75° 50′, on the 27 day of June, 1861, at seven o'cl'k a m., near Cape Henry, a portion of the State of Virginia. There was no charter-party signed or executed.

20. To the 20th interrogatory deponent says: There were no other letters or papers on board at the time of her last clearance, except those delivered to the captors, and none were burnt, torn, thrown overboard, or destroyed in any way, or concealed.

21. To the 21st interrogatory deponent says: I did not know or have any notice of any war with the United States, or that any ports of the United States were held under blockade.

22. To the 22d interrogatory deponent says: I did not know of any blockade when I attempted to enter the port of Richmond, and no warning
61 of such blockade had been given to me at any time, and no notice had been endorsed on my register or other ship's papers.

23. To the 23d interrogatory deponent says: Neither the register or other ship's papers had been shown to or examined by any officer of the revenue service until captured.

24. To the 24th interrogatory deponent says: I do not know, from any information, of any attempt to enter or sail from any port under blockade without success.

25. To the 25th interrogatory deponent says: The vessel has not been seized as a prize at any time.

26. To the 26th interrogatory deponent says: I have sustained no loss if I get my property or baggage and chronometer, now on board, and have received no promise of satisfaction or indemnity, except a promise from Com. Stringham that I should have my baggage.

27. To the 27 interrogatory deponent says: I do not know anything about insurance.

28. To the 28 interrogatory deponent says: I do not know whose prop-

erty the cargo would have been on its arrival. It was consigned to Edmund Davenport & Co., and Dunlop, Moncure & Co., merchants, of Richmond.

29. To the 29th interrogatory deponent says: The cargo was the growth of the Brazils.

30. To the 30th interrogatory deponent says: The cargo was put on board by lighters in the harbor of Rio.

62 31. To the 31st interrogatory deponent says: I know of no other bills of lading, invoices, letters, or instruments of writing of any kind relative to the vessel or cargo, except those delivered to the captors.

32. To the 32d interrogatory deponent says: There were no papers delivered out of the vessel, except those delivered to the captors, viz: the register, crew list, articles, two manifests, four bills of lading, &c., which I suppose are now in the hands of the prize com'rs.

33. To the 33d interrogatory deponent says: Bulk was not broken during the voyage. The cargo now is as it was when loaded.

34. To the 34th interrogatory deponent says: There were no passengers on board, nor any other persons, except the vessel's crew and my wife, who was with me the entire voyage.

35. To the 35th interrogatory deponent says: All the papers found on board are entirely true and fair, and are none of them false or colorable, and I know nothing to affect their credit in any way; and I have written no letters or papers of any kind, excepting a protest, which I have signed to-day, the purport thereof, that I sailed from Rio and was bound to Richmond, Virginia, with a cargo of coffee, and was taken by the steamer Quaker City, twelve miles southeast of Cape Henry, on the high seas, being not ordered off,

63 and knowing nothing about the blockade. The protest was written in New York, but is only noted, and not extended, and remains with the notary.

36. To the 36 interrogatory deponent says: I was entering the Chesapeake, and stearing for Cape Henry light. I was bound for Richmond. Her course was not altered on the appearance of the vessel by which I was taken; and her course was at all times, when the weather would permit, directed to Richmond; and she was not at any time sailing wide of said port. She was distant about 12 miles southeast of Cape Henry.

37. To the 37th interrogatory deponent says: She has never been sold to my knowledge, and I believe that if she is released she will belong to the owners named by herein, and to none others.

38. To the 38th interrogatory deponent says: There were no guns mounted on board, and no arms or ammunition. There was nothing on board enquired of in this interrogatory, and nothing of any kind except the cargo named by the bills of lading delivered to the captors.

39. To the 39th interrogatory deponent says: All I know in reply to this interrogatory I have already stated.

40. To the 40th interrogatory deponent says: My vessel has not sailed under the convoy of any armed vessel or vessels.

64 41. To the 41st interrogatory deponent says: The vessel did not sail to, on any voyage, to my knowledge, or attempt to enter any port under blockade.

42. To the 42 interrogatory deponent says: The vessel did not at any time carry a commission or license as privateer, or to make prizes of any kind.

43. To the 43 interrogatory deponent says: She has never sailed in company or in concert with any armed vessels at any time.

ALEXANDER SOULE.

Subscribed and sworn to before me this 3d day of July, 1861.

HENRY H. ELLIOTT, *U. S. Prize Com.*

65 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Henry H. Elliott, one of the prize commissioners appointed by the district court of the United States for the southern district of New York, in and for the said district, do hereby certify that the foregoing deposition of Alexander Soule, a witness produced on behalf of the captors, was taken by and under my direction, at the time and place mentioned in the caption thereof; that the same contains the answers of the said witness to the "standing interrogatories;" that before such examination was commenced, the oath directed by the 17th prize rule was by me duly administered to the witness, and he was thereupon afterwards examined separate and apart from the other witnesses; that such examination was begun, continued, and finished on the same day, and was by me or under my direction, reduced to writing, and the same having been by me carefully read to him, was by him subscribed in my presence at the close of such examination.

In testimony whereof, I have hereunto set my hand and affixed my official seal, at the city of New York, this third day of July, in the year of our Lord one thousand eight hundred and sixty-one.

HENRY H. ELLIOTT, *U. S. Prize Com.*

66 District court of the United States for the southern district of New York.

Deposition of Thomas H. Branch, first mate, a witness produced, sworn and examined in preparatorio, on the sixth day of July, in the year eighteen hundred and sixty-one, at the number 72 of Wall st., in the city of New York, on the standing interrogatories established by the district court of the United States for the southern district of New York; the said witness having been produced for the purpose of such examination by E. Delafield Smith, esq'r, U. S. district attorney, in behalf of the captors of a certain ship or vessel called the "Sally Magee" and her cargo.

1. To the first interrogatory he says: I was born in Petersburg, Virginia; I live there when not at sea; I am a citizen of the United States, and owe my allegiance thereto; I am not a married man.

2. To the 2nd interrogatory he says: I was present at the capture of the Sally Magee, concerning which I am now examined.

3. To the 3rd interrogatory he says: Such capture was made on the
67 26th of June, I think, about twelve miles to the southward and eastward of Cape Henry, on the coast of Virginia. The vessel, after capture, was carried at first into Hampton Roads, and thence to this port of New York. She had no commission or letters authorizing her to make prizes. I did not hear any reason given for *taken* the vessel, and I do not know for what reasons or on what pretence the seizure was made. I have heard that it was because the ports of Virginia was blockaded.

4. To the 4th interrogatory he says: The vessel sailed under the colors of the United States. She had no other colors on board. She had a private signal, burgee pennant, and union jack. She did not have a secession flag aboard. I have never seen such a flag.

5. To the 5th interrogatory he says: No resistance whatever was made at the time of capture. No guns were fired by any one. The capture was made by the United States ship-of-war "Quaker City." I think there were no other vessels of any kind in sight at the time. I did not see any. The vessel captured is a merchantman, and the Quaker City was in the
68 employment of the government of the United States. I don't know her force. I saw cannon mounted on the forecastle.

6. To the 6th interrogatory he says: I don't know whether the Quaker

City had any commission to act in making such seizure. I supposed and believe she acted under the government of the United States in making such seizure. The captured vessel has not been condemned that I know of.

7. To the 7th interrogatory he says: The name of the vessel captured is the "Sally Magee," and her master's name is Alexander V. Soule. I don't know who appointed him to the command of the vessel. I never heard nor do I know where he was so appointed. I have known the vessel for about three years past, and I have known her master about the same time. I don't know when or where he took command of the vessel, except that I have heard that it was in Richmond, Virginia; but who delivered her to him I do not know. Her master is married. He was married last December, in Richmond. I don't know where he has since lived with his family.
69 His wife has been aboard of the vessel ever since he was married. I don't know, but I think I have heard that he was born in New Haven, Connecticut, and that he is a citizen of the United States.

8. To the 8th interrogatory he says: The vessel is 200 and odd tons burthen; I can't tell exactly her burthen; I have heard, but don't recollect. The number of her company, belonging to her at the time of seizure, was nine—officers and crew, all told; and all were aboard at the time. The crew, consisting of seven, including the steward, were all colored men. I and the master were the only white men aboard. The crew all came aboard at the same time and place, on the 31st December, 1860, at Richmond, Virginia. I joined the vessel in July, 1860, at Richmond. The master was then in command of her. The crew came from Baltimore. I don't know who shipped them. They came from Baltimore to Richmond together. They were hired in Baltimore.

9. To the 9th interrogatory he says: I was first mate of the vessel
70 at the time of her seizure. I had no interest in the vessel or cargo, nor had the captain or any of the crew or company any interest therein to my knowledge or belief

10. To the 10th interrogatory he says: I have known the vessel for about three years past. I first saw her in Richmond about three years ago. She carried no guns. She was an American-built vessel; built in Baltimore. She has always been called the Sally Magee. I have never known or heard of her being called or known by any other name.

11. To the 11th interrogatory he says: The vessel, when taken, was bound on a voyage from Rio de Janeiro to Richmond, Virginia. That voyage began at Richmond, but I can't state where it was to have terminated; but she was destined to Richmond at the time of capture, as far as I know or believe. She carried out from Richmond a cargo of flour and some other merchandise, and she had on board, when captured, 3,400 and odd bags of coffee and ten half barrels of tapioca. This was all the cargo she had. This homeward cargo was put aboard in May, 1861. We commenced taking it aboard the 9th, and ended about the 12th of May, as near as I now recollect.

12. To the 12th interrogatory he says: The vessel had no passports or sea-brief aboard as I know of. She sailed from Richmond bound to Rio
71 on the 1st January, 1861, and proceeded directly to Rio, without stopping at any ports or places, and she sailed from Rio on her homeward voyage on the 12th May last, bound towards Richmond, and did not touch at any port or place before she was captured. Her former voyage before this, was from Richmond to Rio and back. She is regularly in that trade, or has been ever since I joined her, carrying out flour and bringing home coffee.

13. To the 13th interrogatory he says: I have truly stated that the vessel carried out on the voyage a cargo consisting chiefly of flour, and that she

had on board, when taken, a cargo consisting of coffee and tapioca, and that the same was taken on board in May, 1861.

14. To the 14th interrogatory he says: As far as I know or believe, the vessel was owned by David and William Currie, of Virginia. I have also heard that Edmund Davenport & Co., of Richmond, are also part owners. As far as I know all owners reside in Virginia. I know that persons were owners of the vessel from having heard it talked about at Richmond. I don't know who owned the cargo. I have no knowledge or information upon that subject. I believe that David & William Currie and Edmund Davenport & Co., all reside in Richmond, Virginia, but I don't know what countrymen they are.

15. To the 15th interrogatory he says: I don't know anything of
72 any bill of sale of the vessel or of any engagement.

16. To the 16th interrogatory he says: The cargo on board was first put aboard at Rio, as I have before stated. I don't know the names of the shippers of that cargo, nor the names of the consignees. I never heard their names mentioned, and do not know what countrymen they are, nor where they reside, nor whether they have any or what interest in the cargo, nor to whom the same would belong if released and discharged at Richmond.

17. To the 17th interrogatory he says: I don't know and never heard how many bills of lading were signed for the cargo seized. I don't know that any were false. I don't know anything about them. I never heard anything to affect their fairness or credit. I don't know their contents. I never saw or read them.

18 To the 18th interrogatory he says: I had no interest in the vessel or cargo, and there were no papers on board, nor are there any showing any interest of mine in the vessel or cargo. I don't know what papers were on board, and cannot state whether or not there were any showing the interest of any person in the vessel or cargo. It is not in my power to produce any paper. I have none in my possession nor under my control, except
73 the log-books, which I have produced.

19. To the 19th interrogatory he says: I can't at present state the exact latitude or longitude in which the vessel was captured, but it was about twelve miles to the southward and eastward of Cape Henry, as I have before stated. I don't know whether there was any charter-party for the voyage. I never saw or heard of any.

20. To the 20th interrogatory he says: I don't know and cannot state what papers, bills of lading, letters, or other writings relating to the vessel or cargo were on board the vessel when she left Rio on her last voyage. I know nothing upon the subject. I suppose there were bills of lading relating to the cargo, and the register and clearance relating to the vessel, but I never saw them and can't state their contents. There were no papers of any description in any way destroyed or concealed to my knowledge or belief.

21. To the 21st interrogatory he says: I did not know or have notice, nor do I believe that the master knew or had notice, at the time and place of capture that such port or place was in a state of war with the United States, or that the naval forces of the United States held such port or any of the ports of Virginia in a state of blockade. The first we knew or heard of such a thing was after we had been captured. We spoke the brig Amy
74 Warwick from Richmond bound to Rio the first or second day after we left Rio, which was the only vessel we spoke on our homeward voyage. She did not give us any notice or information upon the subject enquired of.

22. To the 22nd interrogatory he says: The port of Richmond was in fact (as I have since been informed and believe) under an order of blockade by

the government of the United States at the time the vessel was captured, but no warning or notice of any such blockade had been given to or received by the master or any person on board the vessel before that time. I don't know whether any or what notice had been given to the owners of the vessel. No notice had been entered upon the register or other ship's papers to my knowledge or belief at any time.

23. To the 23rd interrogatory he says: The register of the vessel was not shown to or examined by any officer of the United States navy or revenue before she was captured to my knowledge or belief.

24. To the 24th interrogatory he says: The vessel never attempted to enter the port of Richmond or other blockaded port to my knowledge or belief, secretly or covertly. She was sailing openly and directly for that port when captured, and in no way secretly or covertly.

25. To the 25th interrogatory he says: The vessel has never been seized or condemned as a prize. She never has been seized before to my
75 knowledge.

26. To the 26th interrogatory he says: I have not sustained any loss by the capture, and shall not unless I lose my wages. I have not received any indemnity or promise of indemnity therefor.

27. To the 27th interrogatory he says: I don't know whether or not the vessel or cargo is insured; I never heard.

28. To the 28th interrogatory he says: If the vessel had arrived at her port of destination and had discharged her cargo I do not know to whom it would have belonged. I have already said that I know nothing as to whom are the owners of the cargo.

29. To the 29th interrogatory he says: I do not know the growth or manufacture of the cargo, but I suppose it must be of some port of the Brazils.

30. To the 30th interrogatory he says: The cargo was all taken on board from lighters. I took count of it from shore, and then sent it off to the vessel in lighters because we could not get a bearth for the vessel, and it was discharged from the lighters into the vessel between the days of May before stated.

31. To the 31st interrogatory he says: I don't know that there are in any country or on board any vessel, unless it be the Sally Magee, any bill of lading, invoices, letters, instruments, papers, or documents relative to the vessel or cargo of any kind. I have no knowledge or information
76 that there are any such.

32. To the 32 interrogatory he says: There were no papers delivered out of the vessel or carried away in any manner before the Quacker City spoke us, but the captain by orders took the ship's papers, and went on board of the Quacker City, where he left them. I don't know what papers he took with him in particular. He brought none back with him that I saw. He told me he had left the papers on board the Quacker City.

33. To the 33rd interrogatory he says: Bulk had not been broken during the voyage up to the time of capture, nor has it been at any time since. The hatches were ordered to be opened and the vessel fumigated at quarantine.

34. To the 34th interrogatory he says: There were no passengers aboard, nor any persons besides the officers and crew above mentioned, and the captain's wife.

35. To the 35th interrogatory he says: As far as I know or believe, all the papers of every description which were on board of the vessel were true and fair, and I do not know of any matter or circumstance to affect their credit. I have not written or signed any letters or papers concerning the vessel or cargo.

36. To the 36th interrogatory he says: We were steering for Hampton Roads, Virginia, when the vessel was captured. Her course was not
77 altered on the appearance of the Quaker City until after she was hailed by her, and ordered to heave to. We immediately hove to, launched our boat, and the captain went aboard of the Quaker City with his papers, and returned in about an hour afterwards, and then we squared away and steered for Hampton Roads. We afterwards took a pilot, who took us into Hampton Roads, and when near the Minnesota he was ordered by some person on board of her where to place the vessel. We sailed direct from Rio for Hampton Roads, and did not deviate before the capture.

37. To the 37th interrogatory he says: I have no knowledge or information concerning any sale of the vessel, or any of the matters enquired of in this interrogatory.

38. To the 38th interrogatory he says: There were no guns mounted or otherwise on board. All that was aboard at the time of capture was the cargo before stated and the usual ship stores.

39. To the 39th interrogatory he says: I have truly stated all I know or believe regarding the real and true property and destination of the vessel and cargo.

40. To the 40th interrogatory he says: The vessel never sailed under convoys of any kind.

41. To the 41st interrogatory he says: The vessel never attempted to enter any port under blockade except so far as I have already stated in reference to her sailing for Hampton Roads.

78 42. To the 42nd interrogatory he says: The vessel never carried a commission or license to act as a privateer, or any authority of any kind to cruise against the persons or property of citizens of the United States or to make prizes thereof.

43. To the 43d interrogatory he says: The vessel never sailed or acted in company or concert with any armed vessel in cruising against, pursuing, or seizing as prize any persons, vessels, or property of citizens of the United States.

THOMAS H. BRANCH.

79 UNITED STATES OF AMERICA,
Southern district of New York, ss:

I, Edward H. Owen, one of the prize commissioners appointed by the district court of the United States for the southern district of New York, in and for the said district, do hereby certify that the foregoing deposition of Thomas H. Branch, a witness produced on behalf of the captors, was taken by and under my direction, at the time and place mentioned in the caption thereof; that the same contains the answers of the said witness to the "standing interrogatories;" that before such examination was commenced, the oath directed by the 17th prize rule was by me duly administered to the witness, and he was thereupon afterwards examined separate and apart from the other witnesses; that such examination was begun, continued, and finished on the same day, and was by me or under my direction, reduced to writing, and the same having been by me carefully read to him, was by him subscribed in my presence at the close of such examination.

In testimony whereof, I have hereunto set my hand and affixed my official seal at the city of New York, this sixth day of July, in the year of our Lord one thousand eight hundred and sixty-one.

[L. S.] E. H. OWEN, *U. S. Prize Com'r.*

80 District court of the United States for the southern district of New York.

Deposition of Michael Martin, (colored,) boatswain, a witness produced, sworn, and examined in preparatorio, on the sixth day of July, in the year eighteen hundred and sixty-one, at number 72 Wall street, in the city of New York, on the standing interrogatories established by the district court of the United States for the southern district of New York; the said witness having been produced for the purpose of such examination by E. Delafield Smith, esquire, United States district attorney for the said district, in behalf of the captors of a certain ship or vessel, called the "Sally Magee," and her cargo.

1. To the first interrogatory he says: I was born at Curacoa, in the West Indies. I now live in New York City, and have lived there for six years past. I am a citizen of the United States of America, and owe allegiance to that power. I am not a married man.

2. To the second interrogatory he says: I was present at the capture or taking of the vessel and her cargo, concerning which I am now examined.

81 3. To the third interrogatory he says: Such seizure and capture was made in June, 1861, off Cape Henry, in Virginia. I don't know the day. The vessel and cargo so taken was carried into Hampton Roads. She had no commission or letters authorizing her to make prizes. The reason she was seized was that she was a vessel hailing from Virginia.

4. To the fourth interrogatory he says: Our vessel sailed under the stars and stripes. She had a private signal. I know of no other colors.

5. To the fifth interrogatory he says: No resistance was made at the time of the capture. No guns were fired. The capture was made by the U. S. steamer "Quaker City." There were no other vessels of any description in sight at the time of the capture. Our vessel was a merchantman, and belonged, I think, to a man named Currie. I don't remember his first name. The capturing vessel was a ship-of-war. I don't know her force.

6. To the sixth interrogatory he says: I don't know whether the capturing vessel had any commission to make such capture. Our vessel has never been condemned at any time since I have been attached to her.

7. To the seventh interrogatory he says: The name of our vessel is the "Sally Magee," and the name of her master was Alexander Soule. I
82 don't know who appointed him, nor where he was so appointed. I have known the said vessel about seven months, and the master about the same time. I have no knowledge nor any information concerning the remaining matters enquired of in this interrogatory.

8. To the eighth interrogatory he says: I don't know the tonnage or burthen of the said vessel. The number of the vessel's company belonging to her at the time she was seized was nine, all told, officers and crew, and that was the number on board at the time of her seizure. All the crew were colored men, but I don't know what countrymen. They were all shipped at Baltimore, in December, 1860, except one who came on board in Rio Janeiro. Those from Baltimore came on board at one time at Richmond. Mr. Jones was the shipper at Baltimore.

9. To the ninth interrogatory he says: I belonged to the vessel's company at the time of her seizure, and was boatswain. I had no interest in the vessel and cargo, nor had any of the crew. I don't know whether or not the officers had any.

83 10. To the tenth interrogatory he says: I saw the "Sally Magee" first in Richmond, Virginia, about seven months ago, and have known her about that time. She carried no guns. There were nine men on board

when captured. I don't know where she was built. I don't know long she has been called the "Sally Magee" She has been so called ever since I have known her. I don't know whether or not she has been called by any other name.

11. To the eleventh interrogatory he says: On the voyage wherein the vessel was seized she was bound from Richmond to Rio Janerio, and from thence to Hampton Roads to wait for orders. The voyage began at Richmond and was to have ended at some place unknown to me; I never knew and cannot tell where. When she first set out from Richmond she had a cargo of flour, and when she was seized she had a cargo of coffee on board. The coffee was put on board in 1861, but I don't remember the month; I think, however, it was in May. I don't know whether there was anything on board contraband of war or otherwise prohibited by law.

84 12. To the twelfth interrogatory he says: I don't know whether the said vessel had any passport or sea-brief on board. She sailed on her last voyage, before taken, from Richmond to Rio Janeiro, and her voyage began at Richmond; I don't know where it was to end. The only cargoes she has carried since I have known her are the cargoes of flour and the one of coffee I have before mentioned. Her last clearing port was Rio Janeiro.

13. To the thirteenth interrogatory he says: The lading the said vessel had on board at the time of her first setting sail in the last voyage was flour, and the lading on board when she was taken was coffee. I don't remember when the flour was put on board. I think the coffee was put on board in May, 1861. I do not know the quantity thereof.

14. To the fourteenth interrogatory he says: I think the owner of the said vessel was named Currie. I never saw him, and I judge he was the owner from what I heard on board ship to that effect. I have no knowledge nor any information concerning the remaining matter herein inquired of.

15. To the fifteenth interrogatory he says: I have no knowledge nor any information concerning the matters inquired of in this interrogatory.

85 16. To the sixteenth interrogatory he says: The coffee found on board the said vessel was first put on board at Rio Janeiro in May, 1861, as I believe. I have no knowledge nor any information concerning the remaining matter herein inquired of.

17. To the seventeenth interrogatory he says: I have no knowledge nor any information concerning any of the matters herein inquired of.

18. To the eighteenth interrogatory he says: I had no interest of any kind in the vessel or her cargo. I never had nor have I now any papers of any description relating to the vessel or her cargo. I never saw any bills of lading.

19. To the nineteenth interrogatory he says: I don't know the degrees of latitude and longitude in which the vessel was so captured. It was made on the 26th June, 1861, as near as I can remember, off Cape Henry, Virginia. I have no knowledge nor information concerning the remaining matters herein enquired of.

20. To the twentieth interrogatory he says: I have no knowledge nor any information concerning the matters in this interrogatory enquired of.

21. To the twenty-first interrogatory he says; I had no knowledge that any of the southern States were in a state of war with the United States, or that there was any blockade of the southern ports, until we were seized by the "Quaker City," as I have already mentioned. I don't know whether or not the owner and master knew of such war and blockade. I don't

86 think any of the crew knew such facts.

22. To the twenty-second interrogatory he says: We never attempted to enter any port under blockade. We were going into Hampton

Roads, and were hailed from the Quaker City. We then came to, and our master went on board that vessel with his papers. I have no knowledge or any information concerning the remaining matters herein inquired of.

23. To the twenty-third interrogatory he says: I have no knowledge nor any information concerning any of the matters herein enquired of. We spoke no vessels on our voyage from Rio Janeiro.

24. To the twenty-fourth interrogatory he says: I know that we never attempted to enter any blockaded port at any time since I have been attached to our vessel. We never sailed from any blockaded port.

25. To the twenty-fifth interrogatory he says: The said vessel has never been condemned as a prize, to my knowledge. The present is the only instance of her being seized, to my knowledge.

26. To the twenty-sixth interrogatory he says: I have sustained no loss by such seizure, unless it be my wages. I have received no indemnity of any kind.

27. To the twenty-seventh interrogatory he says: I have no knowledge nor information concerning any of the matters herein enquired of.

87 28. To the twenty-eighth interrogatory he says: I have no knowledge nor information concerning any of the matters herein enquired of.

29. To the twenty-ninth interrogatory he says: I have no knowledge nor any information concerning the matters herein enquired of.

30. To the thirtieth interrogatory he says: All the cargo was put on board from lighters. I don't know their names nor their owners. It was laden at at Roi Janeiro in May, 1861, I believe.

31. To the thirty-first interrogatory he says: I have no knowledge nor information concerning the matters herein enquired of.

32. To the thirty-second interrogatory he says: The only papers delivered out of our vessel, to my knowledge, were given by our master to an officer of the "Quaker City" at the time of our seizure.

33. To the thirty-third interrogatory he says: Bulk was not broken during the voyage, nor since our capture, to my knowledge.

34. To the thirty-fourth interrogatory he says: There were no passengers on board our vessel, nor any officers, soldiers, or mariners secreted on board, nor any citizens of the United States secreted or confined. The only persons on board were the officers and crew of our vessel, and our captain's wife. I don't know the nation of any of the officers or crew, and cannot, therefore, answer the remaining part of this interrogatory.

35. To the thirty-fifth interrogatory he says: I have no knowledge nor any information concerning the matters enquired of in this interrogatory.

88 36. To the thirty-sixth interrogatory he says: Our vessel, at the time she was taken, was steering towards Hampton Roads. Her course was not at any time altered, but was directed thither when the weather permitted. She was not sailing beyond or wide of that place. I don't know the distance enquired of.

37. To the thirty-seventh interrogatory he says: I have no knowledge nor information concerning any of the matters enquired of in this interrogatory.

38. To the thirty-eighth interrogatory he says: There were no guns mounted on board the vessel, nor any arms or ammunition belonging to her. There were none of the articles enumerated in this interrogatory on board, nor any set of warlike or naval articles or stores. The only lading was the coffee.

39. To the thirty-ninth interrogatory he says: I have already stated all that I know and believe, to the best of my knowledge, regarding the property and destination of the said vessel and her cargo, and know no other matter or thing concerning the same.

40. To the fortieth interrogatory he says: That the said vessel did not, on the voyage in which she was captured and during the time I was attached to her, sail under the convoy of any ship-of-war or other armed vessel. I had no directions from any person to resist or endeavor to avoid or escape from capture, or to destroy, conceal, or refuse to deliver our vessel's documents or papers, or any papers whatever.

89 41. To the forty-first interrogatory he says: That the said vessel, never at any time since I have been attached to her, sailed to or attempted to enter any port under blockade, except in sailing to Hampton Roads on the voyage she was seized. I did not know of any blockade of any blockade of any ports until we were seized.

42. To the forty-second interrogatory he says: That the said vessel did not sail at any time, since I have been attached to her, carrying any commission or license as a privateer or letter of marque and reprisal, or any authority from any persons to cruise against the persons or property of citizens of the United States, and to make prizes thereof.

43. To the forty-third interrogatory he says: That the said vessel did not, at any time since I have been attached to her, sail or act in company with any armed vessels for any purpose whatever.

his
MICHAEL ⋈ MARTIN.
mark.

90 UNITED STATES OF AMERICA,
Southern district of New York, ss:

I, Edward H. Owen, one of the prize commissioners appointed by the district court of the United States for the southern district of New York, in and for the said district, do hereby certify that the foregoing deposition of Michael Martin, a witness produced on behalf of the captors, was taken by and under my direction, at the time and place mentioned in the caption thereof; that the same contains the answers of the said witness to the "standing interrogatories;" that before such examination was commenced, the oath directed by the 17th prize rule was by me duly administered to the witness, and he was thereupon afterwards examined separate and apart from the other witnesses; that such examination was begun, continued, and finished on the same day, and was by me or under my direction reduced to writing, and the same having been by me carefully read to him, was by him subscribed in my presence at the close of such examination.

In testimony whereof, I have hereunto set my hand and affixed my official seal at the city of New York, this sixth day of July, in the year of our Lord one thousand eight hundred and sixty-one.

[L. S.] E. H. OWEN, *U. S. Prize Com.*

Endorsed: 16, 356. U S. district court. The United States *vs.* sch. Sally Magee and cargo, taken as prize. Depositions taken in preparatorio.

Opened in open court by order of court, July 23, 1861.

G. F. BETTS, *Clerk.*

91 District court of the United States for the southern district of New York.

In the matter of the bark "Sally Magee" and her cargo, taken as a prize.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Nathaniel C. Bryant, being duly sworn, deposes and says that he is a lieutenant in the United States navy, attached to the U. S. steamer Minnesota,

now or lately lying in Hampton Roads, Virginia, as flag-ship of Atlantic blockading squadron; that he was not present at the capture of the above-mentioned bark, but he was informed and believes that the capture was made by the U. S. steamer Quaker City, Commander Overton Carr, off Cape Henry, on the 26th of June, 1861; that he first saw the bark in Hampton Roads on the morning of the 20th June. On the same morning he received verbal orders from Flag-Officer Stringham to proceed on board the vessel and examine her condition, and ascertain what provisions she needed, if any.

92 That upon returning to the flag-ship and reporting, he received written orders from Flag-Officer Stringham to "take charge of the bark Sally Magee, of Richmond, boarded this day (26 June) by the United States steamer Quaker City, Overton Carr, commanding, and captured by authority of S. H. Stringham, commanding blockading squadron," and "proceed with her to New York, and deliver the vessel, with all her papers, into the custody of the United States district judge, and to no other person, without authority from him." That subsequently deponent received from Flag-Captain A. Ludlow Case the ship's papers of the said bark, fifteen in number, which he now delivers to the U. S. prize commissioner for the southern district of New York, and which are as follows: Five bills of lading, marked A, B, C, D, E; consular certificate, marked F; manifest of cargo, marked G; crew list and certificate attached, marked I and H; two import manifests, marked K, K1, report of vessels, marked, L; register, marked M; shipping articles and papers attached, marked N, O. That in obedience to orders deponent proceeded on board the bark aforesaid, on the same day aforesaid, and

93 proceeded to sea, and arrived at the port of New York on the evening of July 2d, 1861, and anchored off the quarantine under instructions of the health officer of that port. That deponent has delivered to the prize commissioners each and every document, paper, and writing received by him, relating to the aforesaid captured property, in the same state and condition in which he received them, without any "fraud, subduction, or embezzlement," and without any additions or alterations whatever; and he does not know, nor does he believe, that any of the documents, papers, and writings so received are missing or wanting.

The deponent further says that if at any time hereafter, and before the final condemnation or acquittal of the said captured property, any further or other papers relating thereto shall be found or discovered to his knowledge, they shall be delivered up or information thereof given to the prize commissioners of this district or to this court.

N. C. BRYANT, *Lieut. U. S. N.*

Subscribed and sworn before me this third day of July, 1861.
HENRY H. ELLIOTT, *U. S. Prize Com.*

94 A, H. H. E., prize com'r.

Shipped in good order and condition by John Moore & Co., of Rio de Janeiro, on the good vessel called the Sally Magee, whereof is master for this present voyage, and now riding at anchor at Rio de Janeiro, and bound for Richmond, four hundred and seventy-three bags coffee, each weighing five arrobas nett, Brazilian weight, and one parcel samples, being marked and numbered as in the margin, and are to be delivered in the like good order and condition at the aforesaid port of Richmond, (the dangers and accidents of the seas, rivers, and navigation, of whatever nature and kind soever, excepted,) unto Messrs. Dunlop, Moncure & Co., or their assigns, he or they paying freight for the said goods at the rate of sixty cents per bag, with five primage.

X, 1-7. 473 bs.

In witness whereof, the master or purser of the said vessel hath affirmed to four bills of lading, all of this tenor and date, one of which being accomplished, the others to stand void.

Dated in Rio de Janeiro, this 10 May, 1861.

Weight and contents unknown.

B, H. H. E., prize com'r.

Shipped in good order and condition by Edward Davenport & Co., in and upon the bark called the Sally Magee, whereof A. Soule is master, for the present voyage, now lying in the port of Richmond, Va., and bound for Rio de Janeiro and a market, two thousand and eighty-five bbls. flour, two hundred and fifty half bbls. flour, eighty-five bales domestics, being marked and numbered as in the margin, and are to be delivered in the like order and condition at the aforesaid port of Rio de Janeiro, (the dangers of the seas only excepted,) unto Chas. Coleman & Co., or to their assigns, he or they paying freight for the said goods, at the rate of as per agreement in Richmond, with primage and average accustomed.

600 bbls. carioca.
1485 bbls. Dunlop, Moncure & Co.
250 half bbls., do.
No. 1 to 85, Gallego Mills.

In witness whereof, the master or purser of the said bark hath affirmed to four bills of lading, all of this tenor and date, one of which being accomplished, the others to stand void.

Dated at Richmond, Va., the 2d January, 1861.

C, H. H. E., prize commissioner.

Shipped in good order and condition by Charles Coleman & Co., on board the good ship or vessel called the Sally Magee, whereof Soule is master for present voyage, now lying in the port of Rio de Janeiro, and bound for Richmond, Va., ten half barrels of tapioca, being marked and numbered as in the margin, and are to be delivered in the like good order and condition, at the aforesaid port of Richmond, Va., (the dangers of the seas only excepted,) unto Messrs. Edmund Davenport & Co., or to assigns, he or they paying freight for the said goods, as per agreement, with primage and average accustomed.

In witness whereof, the master of the said vessel hath affirmed to 4 bills of lading, all of this tenor and date, one of which being accomplished the others to stand void.

Dated at Rio de Janeiro, this 10th day of May, 1861.

95 D, H. H. E., prize com'r.

Shipped in good order and condition by Charles Coleman & Co., on board the good ship or vessel called the Sally Magee, whereof Soule is master for present voyage, now lying in the port of Rio de Janeiro, and bound for Richmond, Va., fourteen hundred and fifty bags, containing seventy-two hundred and fifty arrobas nett of coffee, being marked and numbered as in the margin, and are to be delivered in the like good order and condition at the aforesaid port of Richmond, Va., (the dangers of the seas only excepted,) unto Messrs. Dunlop, Moncure & Co. or to assigns, he or they paying freight for the said goods sixty cents per bag, with 5 per cent. primage and average accustomed.

C. D M, No. 1 to 65, 1450 bags of coffee.

In witness whereof, the master of the said vessel hath affirmed to 5 bills of lading, all of this tenor and date, one of which being accomplished the others to stand void.

Dated at Rio de Janeiro, this 10th day of May, 1861.

Weight unknown to .

E, H. H. E., prize com'r.

Shipped in good order and well conditioned by Charles Coleman & Co., on board the good ship or vessel called the Sally Magee, whereof Soule is mas-

ter, now lying in the port of Rio de Janeiro, and bound for Richmond, Va., fifteen hundred and twenty-nine bags, containing seventy-six hundred and forty arrobas nett of coffee, being marked and numbered as in the margin,

C, E. D. 1 to 65, 1,529 bags of coffee.

and are to be delivered in the like good order and condition at the aforesaid port of Richmond, Va., (the dangers of the seas only excepted,) unto Messrs. Edward Davenport & Co., or to assigns, he or they paying freight for the said goods as per agreement, with primage and average accustomed.

In witness whereof, the master of the said vessel hath affirmed to 5 bills of lading, all of this tenor and date, one of which being accomplished the others to stand void.

Dated at Rio de Janeiro, this 10th day of May, 1861.

Weight unknown to A. Soule.

96 F, H. H. E., prize com'r.

CONSULADO DOS ESTADOS UNIDOS DA AMERICA.

[Consulate of the United States of America.]

I hereby certify that I have this day delivered up to A. Soule, master of the Sally Magee of Richmond, admeasured 297 tons, now cleared for the port of Richmond, in the said United States of America, the register, crew list, and duplicate certified articles belonging to the said vessel.

Given under my hand and seal of office this twenty-seventh day of February, A. D. 1861.

[L. S.] WM. SCOTT, JR., *U. S. Consul*,
P'r M. CORDER.

G, H. H. E., prize com'r.

No. 35.—Manifesta da carga de barca America Sally Magee, de 397 toneladas que seque viagan para os Estados Unidos, Capitas A. Soule e consignatarios C. Coleman:

2,970 duas mil novo centas e selenta sacas com cafe.
473 guatio centas e selento e ties.
9 sacas com cafe.
Nove sacas com cafe.
Rio de Janeiro 8 de Maio de 1861.

A. SOULE.

97 Confere con bonbe uin. 4 second d' Alpa de Corte 11 de Maio 1861 a chequia de inspector.

COMACO.

I, H. H. E., prize com'r.

List of persons composing the crew of the barque Sally Magee of Richmond, whereof is master A. Soule, bound for South America:

Names.	Places of birth.	Places of residence.	Of what country citizens or subject.	Description of their persons.			
				Aged.	Height.	Complex	Hair.
Thos. H. Branch	Baltimore	Baltimore	United States	34	5 8	Dark	Dark
Thomas Watson	Baltimore	do	do	36	5 11	Yellow	Woolly
Andrew Wallace	do	do	do	24	5 9	do	do
J. C. Smith	do	do	do	27	5 8	do	do
John Tucker	Boston	do	do	28	5 7	do	do
Michael Martin	do	do	do	38	5 10	do	do
Philip Henry	Delaware	do	do	36	5 5	do	do
George Franks	do	do	do	35	5 11	Black	do

I, A. Soule, do solemnly, sincerely, and truly swear that the within list contains the names of the crew of the barque Sally Magee, together with the places of their birth and residence, as far as I can ascertain the same.

A. SOULE.

Sworn this 2d day of Jan'y, 1861, Richmond, Va., before me.

R. H. LORTON.

I do certify that the within is a true copy of the list of the crew of the barque Sally Magee of Richmond, whereof A. Soule is master, taken
98 from the original on file in this office.

Given under my hand and seal of office at the custom house this 2d day of January, in the year of our Lord one thousand eight hundred and sixty-one.

[L. S.] R. H. LORTON, *D. C.*

I do hereby further certify that the within-named persons who compose the company of the above-mentioned barque, whereof A. Soule is at present master, have produced to me proof, in the manner directed in the act entitled "An act for the relief and protection of the American seamen;" and pursuant to the said act and to the act supplementary to the act concerning consuls and vice-consuls, and for the further protection of American seamen, I do hereby certify that the said persons are citizens of the United States of America.

Given under my hand and seal of office this 2d day of January, 1861.

[L. S.] R. H. LORVEY, *D. C.*

H, H. H. E., prize com'r.

CONSULATE OF THE UNITED STATES OF AMERICA,
Rio Janeiro, May 10th, 1861.

I, the undersigned, consul of the United States of America for Rio Janeiro and the dependencies thereof, do hereby certify that the undernamed
99 seamen or mariners have been duly discharged at this port from the barque Sally Magee according to law.

Date of discharge: ———.

Name of seaman or mariner: —— ——.

And I do certify that Philip Henry, of the crew of said vessel, deserted at this city, and that the master of the same made the declaration that no wages were due to them upon any account whatever.

Given under my hand and the seal of this consulate the day and year above written.

G. M. SCOTT, JR., *U. S. Consul,*
P'r M. CORDER.

K, H. H. E., prize com.

Import manifest.—Manifest of the cargo of a vessel arriving from a foreign port.

Report and manifest of the cargo laden on board of the bark Sally Magee, of Richmond, Va., whereof Soule is master, which cargo was taken on board at Rio de Janeiro, burthen 279 tons, built at Baltimore, in the State of Maryland, and owned by David Currie and another, merchants, at Richmond, Va., as per register granted at Richmond, the 5th
100 day of August, 1857, and bound for Richmond, Va.

Marks.	Numbers.	Packages and contents.	By whom shipped.	To whom consigned.	Place of consignee's residence.	Port of destination.
C E D	1 to 65	Fifteen hundred and twenty-nine bags of coffee.	C. Coleman....	Edmond Davenport.	Richmond.	Richmond.
C D M	1 to 65	Fourteen hundred and fifty bags of coffee.	C. Coleman....	Dunlop, Moncure & Co.	Richmond	Richmond.
X	1-7 to 73	Nine hundred and seventy-three bags of coffee.	John Moore & Co.	Dunlop, Moncure & Co.	Richmond.	Richmond.
		Ten half barrels of tapioca....	C. Coleman....	Edmund Davenport.	.....do.....	.....do.....

No. 5—Duplicate.

101 K, 1.

Import manifest.—Manifest of the cargo of a vessel arriving from a foreign port.

Report and manifest of the cargo laden on board of the bark Sally Magee, of Richmond, whereof Soule is master, which cargo was taken on board at Rio de Janeiro, burthen 279 tons, built at Baltimore, in the State of Maryland, and owned by David Currie, and another, merchants at Richmond, Va., as per register granted at Richmond, Va., the 5th day of August, 1857, and bound for Richmond, Va.

Marks.	Numbers	Packages and contents.	By whom shipped.	To whom consigned.	Place of consignee's residence.	Port of destination.
C E D	1 to 55	Fifteen hundred and twenty-nine bags of coffee.	C. Coleman & Co.	Edmond Davenport.	Richmond.	Richmond
C D M	1 to 65	Fifteen hundred and fifty bags of coffee.	C. Coleman & Co.	Dunlop Moncure	Richmond.	Richmond.
X	1-7 to 73	Four hundred and seventy-three bags of coffee.	John Moore & Co.	Dunlap Moncure	Richmond.	Richmond.
		Ten half barrels of tapioca....	C. Coleman & Co.	Edmond Davenport.	Richmond.	Richmond.

103 L, H. H. E., prize com.

Report of the American barque Sally Magee, Soule, master, sailed from Rio de Janeiro, on the 12th May, 1861, in company with barque Fannie Kennedy, for New York, brig North Point, Smith, for New York.

Vessels in port.

Class.	Vessel's name.	Master.	Where from.	Where bound.	Remarks.
Ship.....	Bullion.....	Hodgdon.....	Boston.....	.....	Waiting.....
Do.....	Grace Sargent.....	Mitchell.....	Liverpool.....	.....	Discharging.....
Do.....	Currier.....	Olmstead.....	London.....	.....	.....do.....
Do.....	Hamlin.....	Davis.....	Cardiff.....	.....	..... do .....
Barque...	Linwood.....	Penny.....	Liverpool.....	.....	Waiting.....
Do.....	American Eagle....	Dyer.....	Port Vendres....	Trieste & Corfu.	Sails on the 17th.
Do.....	Saxonville.....	Gardner.....	Boston	Calcutta.....	Repairing.....
Do.....	Hesper.....	Cook.....	London.....	.....	Discharging.....
Do.....	Conrad	Salisbury.....	Pernambuco.....	.....	Loading .....
Do.....	Old Fellow.....	Harrison.....	Jacksonville.....	.....	Waiting .....
Do.....	Amazon.....	Kernan.....	Baltimore.....	.....	.....do .....
Do.....	Margaret.....	Quig.....	Pernambuco	.....	Discharging.....
Do.....	Brasilaria.....	Baxter.....	New York.....	New York.....	Loading .....
Do.....	Snone	Karston.....	Pensacola.....	.....	Discharging.....
Brig.....	Charles H. Jordan..	Whidden.....	Montevideo.....	Montevideo.....	Loading.....
Do.....	Mungo Park.....	Gill	.....do.....	.....	Discharging.....
Do.....	Monticello.....	Benhan.....	Baltimore.....	.....	Waiting.....
Do.....	Solferino.....	Pattison.....	.....do.....	.....	....do.....
Do	Mount Vernon.....	Hall.....	..... do.....	.....	...do.....
Schooner...	Haze.....	Booth.....	Darien	.....	....do.....
Do.....	Lightning.....	Daniels	New York.....	.....	....do.....
Do	Montrose.....	Linchin.....	Richmond.....	.....	....do.....
Do.....	Mary Helen.....	Hutchinson.....	New York.....	.....	....do.....

104 From your obedient servant.

GEORGE J. ESLING.

M, H. H. E., prize com'r.

United States register of vessels.

Permanent No. 7, (seven.)

In pursuance of an act of the Congress of the United States of America, entitled "An act concerning the registering and recording of ships or vessels," David Currie, of Richmond, Va., having taken or subscribed the oath required by the said act, and having sworn that he, David Currie, ¼, together with Wm. Currie, ⅛, Geo. W. Allen, ⅛, and Robert Edmund, Isaac Davenport, jr., and Jas. H. Blair, partners, ½, all of Richmond aforesaid, are the only owners of the ship or vessel called the "Sally Magee," of Richmond, whereof J. W. Clements is at present master, and is a citizen of the United States, as he hath sworn, and that the said ship or vessel was built at Baltimore during the year eighteen hundred and fifty-seven, as per carpenter's certificate on file at this office; and Wm. Ambers (appointed for the purpose) having certified that the said ship or vessel has one deck and three masts, and that her length is one hundred and twelve 10-12 feet, her depth ten 6-12 feet,

105 and that she measures two hundred and seventy-nine 38-95 tons, that she is a bark, has a square stern, round tuck, and a figure-head; and the said David Currie having agreed to the description and admeasurement above specified, and sufficient security having been given according to the said act, the said bark has been duly registered at the port of Richmond.

Given under my hand and seal, at the port of Richmond, this 5th day of August, in the year one thousand eight hundred and fifty-seven.

F. BIGGER, *Register.*

ED. McCARTH, *D. Coll.*

[Custom house seal Richmond.]

[Endorsed.]

Register No. 7, bark Sally Magee, of Richmond, 279, 38-95 tons No. 1.

DISTRICT AND PORT OF RICHMOND, *Aug.* 26, 1858.

Joseph B. Rogers, having taken the oath required by law, is at present master of the within vessel in lieu of J. W. Clements, late master.

ED. McCARTHY, *D'y Collec'r.*

DISTRICT AND PORT OF RICHMOND, *November* 2, 1859.

Alexander Soule having taken the oath required by law, is at present master of the within-named vessel, in lieu of J. B. Rogers, late master.

ED. McCARTHY, *D'y Coll'r.*

UNITED STATES DISTRICT CLERK'S OFFICE, *Southern district of New York:*

I hereby certify the foregoing paper writing to be a true copy of the original certificate of registry of the bark Sally Magee, on file among the papers in this cause, and that the said original certificate of registry has been withdrawn from the files, and the above copy substituted in lieu thereof by order of court. New York, Aug. 26, 1861.

GEO. F. BETTS, *Clerk.*

106 N, H. H. E., prize com'r.

CONSULATE OF THE UNITED STATES OF AMERICA,
Rio de Janeiro, May 10th, 1861.

I, Robert J. Scott, jr., consul of the United States of America for Rio Janeiro and the dependencies thereof, do hereby certify that the seamen or mariners hereinafter named have been duly shipped at this port for the b'k Sally Magee, before me, upon the terms and conditions set opposite their names, respectively, viz:

Names of seamen or mariners, John Othwell.
Stations, seaman.
Monthly wages, $16.
Advance wages, $16.

Given under my hand and the seal of this consulate the day and year above written.

[SEAL.] ROB'T J. SCOTT, JR., *U. S. Consul.*
F. M. CORDON.

107 O, H. H. E., prize com'r.

No spirituous liquors allowed on board.

United States of America.

Jones and Corbett, central shipping office, NW. corner of Frederick and Pratt streets, up stairs, Baltimore.

It is agreed between the master and seamen or mariners of the barque Sally Magee, of Richmond, whereof A. B. Soule is at present master, or whosoever else shall go for master, now bound for the port of Richmond, to one or more ports in South America as the master may direct, and back to a final port of discharge in the United States, that in consideration of the monthly or other wages against each respective seaman or mariner's name hereunto set, they severally shall and will perform the above-mentioned voyage. And the said master doth hereby agree with and hire the said seamen or mariners pursuant to this agreement and the laws of Congress of the United States of America, and the custom and usage of

the port of Richmond. And they, the said seamen and mariners, do severally hereby promise and oblige themselves to do their duty, and obey the lawful commands of their officers on board the said vessel on the parts thereunto belonging, as become good and faithful seamen or mariners, and at all places where the said vessel shall put in or anchor at during the said voyage, to do their best endeavors for the preservation of the said
108 vessel and cargo, and not to neglect or refuse to do their duty by day or night, nor shall go out of said vessel on board any other vessel or be on shore under any pretence whatever until the above said voyage be ended, and the said vessel be discharged of her loading, without leave first being obtained of the captain or commanding officer on board; that, on default thereof, they will be liable to all the penalties and forfeitures mentioned in the marine law, enacted for the government and regulation of seamen in the merchant's service, and which it is enacted "that if any seaman or mariner shall absent himself from on board the ship or vessel without leave of the master or officer commanding on board, and the mate or other officer having charge of the log-book shall make an entry therein of the name of such seaman or mariner on the day on which he shall so absent himself, and if such seaman or mariner shall return to his duty within forty-eight hours, such seaman or mariner shall forfeit three days' pay for every day which he shall so absent himself, to be deducted out of his wages, but if any seaman or mariner shall absent himself for more than forty-eight hours at any time, he shall forfeit all wages due to him, and all his goods and chattels which were on board the said ship or vessel, or in any store where they may have been lodged at the time of his desertion, to the use of the owner or owners of said ship or vessel, and, moreover, shall be liable to pay
109 him or or them all damages which he or they may sustain by being obliged to hire other seamen or mariners in his or their place.

And it is further agreed that in case of capture, death, or impressment, the wages are to cease. And it is further agreed by both parties that each and every lawful command which the said master shall think necessary hereafter to issue for the effectual government of the said vessel, suppressing immorality and vice of all kinds, to be strictly complied with, under the penalty of the person or persons disobeying forfeiting his or their whole wages or time, together with everything belonging to him or them on board said vessel. And it is further agreed that no officer or seaman belonging to the said vessel shall demand or be entitled to his wages, or any part thereof, until the arrival of the said vessel at the above-mentioned port of discharge and the cargo delivered. And it is hereby further agreed between the master and officers of the said vessel that whatever apparel, furniture, and stores each of them may receive into their charge belonging to the said vessel shall be accounted for on her return, and in case anything should be lost or damaged through their carelessness or inefficiency, it shall be made good, by such officer or seaman by whose means it may happen, to the master and owner of the said vessel. And whereas it is customary for the said officers and seamen on the vessel's return home, in the harbor, and whilst the cargo is delivering, to go on shore each night to sleep, greatly to the
110 prejudice of such vessel and freighters, be it further agreed by the ship parties that neither officer nor seaman shall on any pretence whatever be entitled to such indulgence, but shall do their duty by day in discharging of the cargo and keep such watch by night as the master shall think necessary in order for the preservation of the above. And whereas it often happens that part of the cargo is embezzled, after being safely delivered into lighters, and as such losses are made good by the owners of the vessel, be it therefore agreed by these presents that whatever

officer or seaman the master shall think proper to appoint, shall take charge of her cargo on the lighters and go with it to the lawful quay, and there deliver his charge to the vessel's husband or his representative to see the same safely landed; that each seaman or mariner who shall well and truly perform the above-mentioned voyage, (provided always there be no plunderage, embezzlement, or other unlawful acts committed on the said vessel's cargo or stores,) shall be entitled to the payment of the wages or hire that may become due to him pursuant to this agreement as to their names is severally fixed and set forth: Provided, nevertheless, that if any of the said crew disobey the orders of the said master or other officers of the said vessel, or absent himself at any time without liberty, his wages due at the time of
111 such disobedience or absence shall be forfeited, and in case such person or persons so forfeiting wages shall be reinstated or permitted to do further duty it shall not do away such forfeiture; that for the due performance of each and every of the above-mentioned articles, and agreements, and acknowledgments of their being voluntarily and without compulsion, or any other clandestine means being used, agreed to and signed by us. In testimony whereof we have each and every of us under affixed our hands, month and day against our names as hereunder written. And it is hereby understood and mutually agreed by and between the parties aforesaid that they will render themselves on board the said barque on or before the at o'clock in the noon.

Date of entry.	Names.	Station.	Place of birth.	Wages per month	Adv'e wages	Description of persons.			
						Age.	Height. ft.	Height. in.	Complex.	Hair.
	A. B. Soule.....	Master.								
Dec. 31.	Thos. H. Branch.....	Mate	Virginia.....	$40	.....	34	5	8	Dark....	Dark..
31.	Thomas Watson.....	Cook&ste'd	Baltimore..	30	$40	34	5	11	Yellow..	Woolly.
31.	Andrew Wallace.....	Seaman....	...do	15	24	26	5	9	....do...	...do...
31.	J. C. Smith	....do....	....do.....	15	25	27	5	8	...do...	...do...
31.	John Tucker.....	....do.....	Boston.....	16	20	28	5	7	....do....	...do...
31.	Michael Martin.....	....do.....	.. do	16	25	38	5	10	....do....	. .do...
31.	Philip Henry.....	....do.....	Delaware ..	15	24	36	5	5	....do....	.. do...
31.	George Franks.....	....do.....	....do.....	15	16	35	5	11	Black....	...do...
Feb'y 22.	Felix Ohnoel, his ✕ mark.	...do.....	.....	16	16	...	.	.....	.....	...do...

Witness: James & Corbett.

CUSTOM-HOUSE, *Port of Richmond.*

I do hereby certify that the above writing is and does contain a
112 true copy of the original shipping articles of the barque Sally Magee, whereof J. M. Soule goes master, now bound for South America.

Given under my hand and seal this 2d day of Jan'y, 1861.

[L. S.] R. H. LEONARD, *D. C.*

Log-book of the Sally Magee, produced by Thomas H. Branch in his examination before me, the 6th July, 1861.

E. H. OWEN, *U. S. Prize Com.*

Log book of the Sally Magee produced by Thomas N. Branch on his examination before me the 6th July, 1861.

E. H. OWEN, *U. S. Prize Com'r.*

A journal of the transactions and remarkable events on board the bark Sally Magee, Capt. A. V. Soule, laying at Rio.

113 12*th* May, 1861.

H.	K.	F.	Courses.	Winds.	
1	...	....	.....	.....	The first part of this light easterly winds and clear pleasant weather at 1.30 p. m. The tow-boat Protector took us in tow in company with the barks Fame and Henrietta. At 4 do. made all sail and proceeded to sea. At 8 do. Razo Island light bore W.NW., dis't about 5 miles. This day contains 20 hours, so as to end the civil account.
2	...	....	.....	.....	
3	...	....	.....	.....	
4	...	....	.....	.....	
5	...	....	.....	.....	
6	...	...	.....	.....	
7	...	....	.....	.....	
8	...	....	.....	.....	
9	...	....	.....	.....	
10	...	....	.....	.....	
11	...	....	.....	.....	
12	...	....	.....	.....	
1	...	....	.....	.....	
2	...	....	.....	.....	
3	...	....	.....	.....	
4	...	....	.....	.....	
5	...	....	.....	.....	
6	...	....	.....	.....	
7	...	....	.....	.....	
8	...	....	.....	.....	
9	...	....	.....	.....	
10	...	...	.....	.....	
11	...	....	.....	.....	
12	...	....	.....	.....	

Monday, 13th May, 1861, *Barque Sally Magee on her voyage from Rio towards Richmond.*

1	...	....	.....	.....	The first part of this day light winds and fine weather at 8 p. m.; Razo Island bore W.NW., dis't about 5 miles, from which I take my departure.
2	...	....	.....	.....	
3	...	....	.....	.....	
4	...	....	.....	.....	
5	...	....	.....	.....	
6	...	....	.....	.....	Middle part light winds and thick weather.
7	...	....	.....	.....	
8	5	....	S.SE.....	East.....	Latter part light airs and fine weather; spoke brig Amy Warwick, from Richmond bound to Rio, 40 days out.
9	5	....	....do....	.....	
10	5	....	E. by S...	SW.....	At 12 noon Cape Frio bore N.NE., dis't about 15 miles.
11	5	....	.....	.....	
12	6	....	.....	.....	Lat. by obs'n, 23 16.
1	6	....	.....	.....	
2	6	....	.....	.....	
3	6	....	.....	.....	
4	5	....	.....	.....	
5	5	....	.....	.....	

A journal of the transactions, &c.—Continued.

H.	K.	F.	Courses.	Winds.	
6	5	....	.....	.....	
7	5	....	.....	.....	
8	5	....	.....	.....	
9	3	....	E. by N...	.....	
10	2	....	.....	.....	
11	2	....	.....	.....	
12	2	....	.....	.....	

114 TUESDAY, 14TH MAY, 1861.

1	1	....	E. by N..	Variable..	All of these 24 hours calm clear weather, with a heavy swell running; lost sight of the bark Fame.
2	1	....	F'm E. to W.	.....	
3	1	....	....do....	.....	
4	1	....	....do....	.....	At 12 noon Cape Frio bore N.NW., dis. about 10 miles.
5	1	....	....do....	.....	
6	1	....	....do....	.....	Pumps carefully attended to.
7	0	....	....do....	Calm.....	Lat. by obs'n, 23 15.
8	0	....	....do....	.....	
9	0	....	....do....	.....	
10	0	....	....do....	.....	
11	0	....	....do....	.....	
12	0	....	....do....	.....	
1	0	....	....do....	.....	
2	0	....	....do....	.....	
3	0	....	....do....	.....	
4	0	....	....do....	.....	
5	0	....	....do....	.....	
6	0	....	....do....	.....	
7	0	....	....do....	.....	
8	0	....	....do....	.....	
9	0	....	....do....	.....	
10	0	....	....do....	.....	
11	0	....	....do....	.....	
12	0	....	...do....	.....	

WEDNESDAY, 15TH.

1	0	....	.....	.....	The first part of these 24 hours calm clear weather; at 11 p. m. a light breeze sprung up from the north'ard.
2	0	....	.....	.....	
3	0	....	.....	.....	
4	0	....	.....	.....	At 12 midnight Cape Frio light bore NW. per compass, dis't about 12 miles, from which I take my 2d departure.
5	0	....	.....	.....	
6	0	....	.....	.....	
7	0	....	.....	.....	
8	0	....	.....	.....	Latter part light winds and fine weather; all possible sail set by the wind.
9	0	....	.....	.....	

A journal of the transactions, &c.—Continued.

H.	K.	F.	Courses.	Winds.	
10	0	....	.....	.....	Pumps carefully attended to.
11	2	....	East.....	N. NE....	Lat. by obs'n, 23 27 S.
12	2	....	.....	....do....	
1	1	5	.....	....do....	
2	0	....	.....	.....	
3	0	....	Calm	Calm.....	
4	0	....	.....	.....	
5	0	....	.....	.....	
6	1	....	.....	.....	
7	2	....	E. SE....	NE.....	
8	3	....	.....	.....	
9	4	....	.....	.....	
10	4	....	.....	.....	
11	5	....	.....	.....	
12	5	....	.....	.....	

115 THURSDAY, 16TH.

1	5	....	E. by S...	NE. ½....	The first part of these 24 hours moderate winds and fine weather.
2	5	....	½ S.....	.....	
3	5	....	.....	.....	Middle part fresh wind, and clear, pleasant weather; took in the light sails.
4	5	....	.....	.....	
5	5	....	.....	.....	Latter part strong winds, and heavy weather, with a heavy cross sea on; shorten sail.
6	5	....	.....	.....	
7	5	....	.....	.....	
8	5	....	SE. by E.	NE. by E.	Pumps carefully attended to.
9	5	....	.....	.....	Lat. by obs'n, 24° 05′ S. 4 days out.
10	6	....	.....	.....	
11	6	....	E .SE.....	NE.....	
12	6	....	....do....	....do....	
1	6	....	....do....	....do....	
2	7	....	....do....	....do....	
3	7	....	E. by S...	NE. by N.	
4	7	....	....do....	.....	
5	7	....	....do....	.....	
6	6	....	E. by N...	N. by E ½.	
7	6	....	....do....	.....	
8	6	....	....do....	.....	
9	5	....	....do....	.....	
10	4	5	.....	.....	
11	4	5	.....	.....	
12	4	5	.....	.....	

A journal of the transactions, &c.—Continued.

FRIDAY, 17 MAY.

H.	K.	F.	Courses.	Winds.	
1	4	5	E. by N...	N. by E. ½	This day commences with pleasant gales and clear weather.
2	4	5	.....	.....	
3	4	5	.....	.....	Middle part fresh gales and squally weather, with rain. Reefed the topsails.
4	4	5	.....	.....	
5	4	5	.....	.....	
6	4	5	.....	.....	Latter part moderate gales and heavy squalls, with a high cross sea running, the bark pitching and rolling heavily, taking in a large quantity of water on deck.
7	4	....	.....	.....	
8	4	....	.....	.....	
9	4	....	.....	.....	
10	4	....	.....	.....	
11	3	....	.....	.....	Pumps carefully attended to.
12	3	....	.....	.....	Sun obs'n.
1	3	....	E.NE.....	North	
2	3	....	.....	.....	
3	3	....	.....	.....	
4	3	....	.....	.....	
5	2	....	.....	.....	
6	2	....	.....	.....	
7	3	....	.....	.....	
8	3	....	.....	.....	
9	3	....	.....	.....	
10	3	....	.....	.....	
11	3	....	.....	.....	
12	3	....	.....	.....	

116 SATURDAY, 18TH MAY.

1	3	...	N.NE.....	NW. ½ SW	The first part of these 24 hours pleasant gales and thick, squally weather, with rain. At 1 p. m. the wind hauled suddenly to the SW. At 4 p. m. made sail.
2	5	....	.....	.....	
3	5	....	.....	.....	
4	6	....	.....	.....	
5	6	....	.....	.....	
6	6	....	.....	.....	
7	6	....	.....	S.SW....	Middle part pleasant gales and fine weather. Sea abated.
8	6	....	.....	.....	
9	8	....	.....	.....	Latter part strong winds and fine weather. Made all sail.
10	8	....	.....	.....	
11	8	....	.....	.....	Pumps carefully attended to.
12	8	....	.....	.....	Lat. by obs'n, 20° 58′ S.
1	8	....	.....	.....	
2	8	....	.....	.....	
3	8	...	.....	.....	
4	8	....	.....	.....	
5	8	....	.....	.....	
6	8	....	.....	.....	
7	8	....	.....	.....	
8	8	....	.....	.....	

A journal of the transactions, &c.—Continued.

H.	K.	F.	Courses.	Winds.	
9	8	....	.....	.....	
10	8	....	.....	.....	
11	8	....	.....	.....	
12	8	....	.....	.....	

SUNDAY, 19TH MAY.

1	8	....	E.NE	.Variable..	The first part of this day fresh winds and variable weather.
2	8	....	.....	....do....	
3	8	....	.....	....do....	Middle part thick, squally weather. Took in the light sails.
4	8	....	.....	....do....	
5	8	....	.....	....do....	Latter part thick, squally weather, with rain. Two vessels to the leeward.
6	8	....	.....	....do....	
7	7	....	.....	....do....	
8	7	....	.....	....do....	Pumps attended to.
9	7	....	.....	....do....	Lat. by obs'n, 18° 39′ S.
10	7	....	.....	....do....	
11	7	....	.....	....do....	
12	7	....	.....	....do....	
1	7	....	.....	....do....	
2	4	....	.....	....do....	
3	2	....	.....	....do....	
4	2	...	.....	....do....	
5	4	....	.....	....do....	
6	4	....	.....	....do....	
7	5	....	.....	....do....	
8	5	...	.....	....do....	
9	5	....	.....	....do....	
10	5	....	.....	....do....	
11	5	....	.....	....do....	
12	5	....	.....	....do....	

117 MONDAY, 20TH MAY.

1	4	....	N.NE. ...	Variable.	The first part of these 24 hours, light baffling airs and thick rainy weather. Three vessels in sight.
2	2	....	.....	....do....	
3	1	5	.....	....do....	
4	1	5	.....	....do....	Middle part, light breezes and cloudy weather.
5	1	5	.....	....do....	
6	1	5	.....	....do....	Latter part, light winds and fine weather. All possible sail set. In company with a bark.
7	1	5	.....	....do....	
8	1	5	.....	....do....	
9	3	....	N. by E...	. E. by N..	Pumps carefully attended.
10	3	....	....do....	....do....	Lat. by obs'n 17 25 S.
11	3	...	....do....	....do....	8 days out.
12	3	....	....do....	....do....	

A journal of the transactions, &c.—Continued.

H.	K.	F.	Courses.	Winds.	
1	3	....	N. ½ E....	E. by N. ½ N	
2	3	....	....do....	.....	
3	3	....	....do....	.....	
4	3	....	....do....	.....	
5	3	....	....do....	.....	
6	3	....	....do....	.....	
7	4	....	... do ...	.....	
8	4	....	....do....	.....	
9	4	....	N. by W..	NE. by E.	
10	4	....	.....	.....	
11	3	....	.....	.....	
12	3	....	.....	.....	

TUESDAY, 21ST MAY.

1	3	....	N. by W..	NE. by E.	The first part of this day, light breezes and fine weather.
2	3	....	.....	.....	
3	3	....	.....	.....	Middle and latter part continues as above throughout. Crew busily employed at various jobs.
4	3	....	.....	.....	
5	2	...	.....	.....	
6	2	....	.....	.....	Pumps attended to. Nine days out.
7	2	....	N.byW.½W	N.E. ½ E..	Lat. by obs'n 16 19 S.
8	3	....	.....	.....	
9	3	....	.....	.....	
10	3	....	.....	.....	
11	3	....	.....	.....	
12	2	....	.....	.....	
1	2	....	.....	.....	
2	2	....	N. ½ W..	E.NE.	
3	3	....	.....	.....	
4	3	....	.....	.....	
5	2	....	.....	.....	
6	2	....	N.byW.½W	NE. ½ E...	
7	2	....	.....	.....	
8	3	....	.....	.....	
9	3	....	.....	.....	
10	3	....	.....	.....	
11	3	....	.....	.....	
12	3	....	.....	.....	

118 WEDNESDAY, 22ND.

1	2	....	N.byW.½W	N.E. ½ E..	All of these 24 hours, light baffling breezes and clear pleasant weather.
2	2	....	.....	.....	
3	2	....	.....	.....	All possible sail set by the wind.—Crew busily employed.
4	1	....	.....	.....	

A journal of the transactions, &c.—Continued.

H.	K.	F.	Courses.	Winds.	
5	1	....	.....	.....	Pumps carefully attended. 10 days out.
6	1	5	.....	.....	
7	1	5	.....	.....	Lat. by obs'n 15 27 S.
8	2	....	.....	.....	Long. per chr. 37 09 W.
9	2	....	N. by E. .	E. by N. .	
10	2	....	.....	.....	
11	2	....	.....	.....	
12	2	...	.....	.....	
1	2	....	.....	.....	
2	3	...	.....	.....	
3	3	....	.....	.....	
4	3	....	.....	.....	
5	3	....	North. ...	E.NE.....	
6	3	....	.....	.....	
7	3	....	.....	.....	
8	3	....	.....	.....	
9	2	....	.....	.....	
10	2	....	N. by W..	NE. by E..	
11	2	....	.....	.....	
12	2	....	.....	.....	

THURSDAY, 23D MAY.

1	2	....	N.byW.½W	NE. ½ E...	The first part of this day, light breezes and fine weather. At 6 p. m. tacked to the southward and eastward.
2	2	....	.....	.....	
3	2	....	.....	.....	
4	2	....	.....	.....	Middle part, light wind and clear pleasant weather.
5	2	....	.....	.....	
6	2	....	.....	.....	Latter part continues as above throughout. At 8 a. m. tacked to N.
7	2	....	E.SE.	N.E.....	
8	2	....	.....	.....	Pumps attended to.
9	2	....	.....	.....	Lat. by obs'n 15 21 S.
10	2	....	.....	.....	Long per chr. 36 39 W.
11	3	....	.....	.....	
12	3	....	.....	.....	
1	3	....	SE. by E..	E. by N...	
2	2	....	.....	.....	
3	2	....	.....	.....	
4	2	....	.....	.....	
5	2	....	.....	.....	
6	3	....	.....	.....	
7	3	....	.....	.....	
8	3	....	.....	.....	
9	2	....	.....	.....	
10	2	...	N. ½ E....	E. by N....	
11	2	....	.....	.....	
12	2	....	.....	.....	

A journal of the transactions, &c.—Continued.

119 FRIDAY, 24TH MAY.

H.	K.	F.	Courses.	Winds.	
1	2	....	N. ½ E....	NE by E ½ E	The first part of this day light, baffling
2	2	....	.....	.....	breezes, and clear pleasant weather.
3	2	....	.....	.....	Middle part light winds and heavy
4	2	....	.....	.....	passing clouds.
5	2	....	.....	.....	Latter part, moderate winds and squal-
6	3	....	N. by E..	NE. by E.	ly weather, with rain; took in and
7	3	....	.....	.....	made sail.
8	2	....	.....	.....	Pumps attended to.
9	2	....	.....	.....	12 days out.
10	3	....	N. by E. ½ E	.....	Lat. by obs. 13° 47′ south.
11	3	....	.....	.....	Long. per chr. 36° 29′ W.
12	3	....	.....	.....	
1	3	....	.....	.....	
2	3	....	NE. by N.	E. by S...	
3	4	....	.....	.....	
4	4	....	.....	.....	
5	4	....	.....	.....	
6	5	....	.....	.....	
7	5	....	.....	.....	
8	5	....	.....	.....	
9	5	....	.....	.....	
10	5	....	.....	.....	
11	4	....	.....	.....	
12	4	....	.....	.....	

SATURDAY, 25TH.

1	5	....	NE. by N.	E. by S...	The first part of this day fresh winds
2	5	....	.....	.....	and squally weather; took in the light
3	5	....	.....	.....	sails; saw a brig bound to the west-
4	5	....	.....	.....	ward.
5	5	....	.....	.....	Middle part, fresh winds and heavy
6	5	....	.....	.....	passing clouds.
7	5	....	.....	.....	Latter part more moderate, and fine
8	5	....	.....	.....	weather; made sail; 13 days out.
9	5	....	.....	.....	Pumps attended to.
10	5	....	.....	.....	Lat. by obs. 11° 42′ S.
11	5	....	.....	.....	
12	6	....	.....	.....	
1	6	....	.....	.....	
2	6	....	NE. ½ N.	E. by S. ½ S	
3	5	....	.....	.....	
4	5	....	.....	.....	
5	5	....	.....	.....	
6	5	....	.....	.....	
7	5	....	.....	.....	

A journal of the transactions, &c.—Continued.

H.	K.	F.	Courses.	Winds.	
8	5	....	.....	.....	
9	5	....	.....	.....	
10	5	....	.....	.....	
11	5	....	.....	.....	
12	5	....	.....	.....	
120			SUNDAY, 26TH MAY.		
1	4	....	NE. by E.	S.E. by E.	The first part of this day moderate winds and squally weather, with rain.
2	4	....	.....	.....	
3	3	....	.....	.....	
4	3	....	.....	.....	Middle part, fresh winds and heavy passing clouds; stranded the main-top gallant backstay.
5	3	...	.....	.....	
6	4	....	.....	.....	
7	5	....	NE ½ N...	E. by S.½ S.	Latter part, light winds and fine weather; all possible sail set.
8	5	....	.....	.....	
9	6	....	.....	.....	14 days out.
10	6	....	.....	.....	Pumps carefully attended.
11	6	....	.....	.....	Lat. by obs. 9° 50′ S.
12	6	....	.....	.....	
1	6	....	.....	.....	
2	6	....	NE. by N.	E. by S...	
3	5	....	.....	.....	
4	5	....	.....	.....	
5	5	....	.....	.....	
6	5	....	.....	.....	
7	4	....	.....	.....	
8	4	....	.....	.....	
9	4	....	.....	.....	
10	4	....	.....	.....	
11	4	....	.....	.....	
12	4	....	.....	.....	
			MONDAY, 27TH		
1	3	....	N. NE...	East.....	The first part of these 24 hours, light winds and fine weather.
2	3	....	.....	.....	
3	3	....	.....	.....	Middle part, light winds and squally weather, with rain; took in the light sails.
4	3	....	.....	.....	
5	3	....	.....	.....	
6	3	...	.....	.....	Latter part, fresh winds with light rain squalls; all possible sail set.
7	3	....	.....	.....	
8	3	....	NE.byN ½N	.....	Pumps carefully attended.
9	4	....	.....	.....	Lat. by obs. 7° 41′ S.
10	4	....	.....	.....	Long. per chr. 34° 33′ W.
11	4	....	.....	.....	
12	4	....	.....	.....	

A journal of the transactions, &c.—Continued.

H.	F.	F.	Courses.	Winds.	
1	4	....	.....	.....	
2	4	....	.....	.....	
3	4	....	.....	.....	
4	4	....	.....	.....	
5	6	....	.....	.....	
6	6	....	.....	.....	
7	6	....	.....	.....	
8	7	....	North....	E.SE.....	
9	8	....	.....	.....	
10	8	....	.....	.....	
11	8	....	.....	.....	
12	8	....	.....	.....	

TUESDAY, MAY 28TH.

1	8	....	North. ...	S.SE...	The first part of these 24 hours fine winds and pleasant weather. At 2 p. m. saw the land.
2	8	....	.....	.....	
3	8	....	.....	.....	
4	8	..	.....	.....	Middle part continues as above throughout.
5	7	....	.....	.....	
6	7	....	.....	.....	
7	7	....	N. ½ E...	S. by E...	Latter part moderate winds and variable weather. Studding sails set alow and aloft. 16 days out.
8	...	....	.....	.....	
9	6	....	.....	.....	Lat. by obs 4 39 S. Long. per chr. 35 31 west.
10	6	....	.....	.....	
11	6	....	.....	.....	
12	6	....	.....	.....	
1	6	....	.....	.....	
2	7	....	.....	.....	
3	7	....	.....	.....	
4	7	....	.....	.....	
5	7	....	.....	.....	
6	7	....	.....	.....	
7	7	....	.....	.....	
8	7	....	N. by W.	.....	
9	6	....	.....	.....	
10	6	....	.....	.....	
11	6	....	.....	.....	
12	6	....	.....	.....	

WEDNESDAY, 29TH.

1	6	....	N.byW.½W	SE.trades.	The first part of these 24 hours moderate winds and pleasant weather.
2	6	....	.....	....do....	

A journal of the transactions, &c.—Continued.

H.	F.	F.	Courses.	Winds.	
3	6	..	....	SE. trades.	Middle part fine winds and thick weather, with rain.
4	6	....	.....	....do....	
5	6	....	.....	....do....	Latter part moderate winds and fine weather. All possible sail set. 17 days out.
6	7	....	.....	....do....	
7	7	....	.....	....do....	
8	7	....	.....	....do....	Pumps carefully attended.
9	7	....	N.NW....	....do....	
10	7	....	.....	....do....	
11	7	....	.....	....do....	
12	7	....	.....	....do...	
1	7	....	.....	....do....	
2	7	....	.....	....do....	
3	7	....	.....	....do....	
4	7	....	.....	....do....	
5	7	....	.....	....do....	
6	6	....	.....	....do....	
7	6	....	.....	....do...	
8	6	....	.....	....do....	
9	6	....	.....	....do....	
10	6	....	.....	....do....	
11	7	....	.....	....do....	
12	7	....	.....	....do....	

122 THURSDAY, 30TH.

1	6	....	NW. by N.	Trades. ..	The first part of these 24 hours moderate winds and fine weather.
2	6	....	.....	....do....	
3	6	....	.....	....do....	Middle part brisk winds and clear weather.
4	6	....	.....	....do....	
5	6	....	.....	....do....	Latter part light winds and fine weather. All possible sail set. Crew busily employed. Pumps attended to. 18 days out.
6	6	....	.....	... do....	
7	7	....	.....	....do....	
8	7	....	NW. by N.	....do....	
9	7	....	½N.....	....do....	Lat. by obs. 00 27 S. Long. per chr. 40 00 west.
10	7	....	.....	....do....	
11	7	....	.....	....do....	
12	7	....	.....	....do....	
1	7	....	.....	....do....	
2	7	....	.....	....do....	
3	5	....	.....	....do....	
4	5	....	.....	....do....	
5	5	....	.....	....do....	
6	5	....	.....	....do....	
7	6	....	.....	....do....	
8	6	....	.....	....do....	
9	5	....	.....	....do....	
10	5	....	.....	....do....	
11	5	....	.....	....do....	
12	5	....	.....	....do....	

1887

A journal of the transactions, &c.—Continued.

FRIDAY, MAY 31ST.

H.	K.	F.	Courses.	Winds.	
1	6	....	N.NW...	Trades...	The first part of these 24 hours moderate winds and pleasant weather.
2	6	....	.....	....do....	
3	6	....	.....	....do....	Middle and latter part continues as above thoughout. All possible sail set. Crew busily employed. Pumps carefully attended. 19 days out.
4	6	....	.....	....do....	
5	5	....	.....	....do....	
6	5	...	NW. by N.	....do....	
7	5	....	½ N....	....do....	Lat. by obs. 01 21 N. Long. per chr. 41 11 W.
8	5	....	.....	....do....	
9	5	....	.....	....do....	
10	5	....	N.NW...	....do....	
11	5	....	.....	....do....	
12	6	....	.....	....do....	
1	6	....	.....	....do....	
2	6	....	.....	....do....	
3	6	....	.....	....do....	
4	6	....	.....	....do...	
5	6	....	.....	....do....	
6	6	....	.....	....do....	
7	5	....	.....	....do....	
8	5	....	NW. by N.	....do....	
9	5	....	½ N....	....do....	
10	5	....	.....	....do....	
11	5	....	.....	....do....	
12	5	....	.....	....do....	

123 SATURDAY, 1ST JUNE.

1	4	....	NW. by N.	S. SE.....	The first part of these 24 hours, moderate winds and cloudy weather.
2	4	....	½ N....	.....	
3	4	....	....do. ...	.....	Middle part squally, with rain; took in the light sails.
4	4	....	....do. ...	.....	
5	5	....	....do....	.....	Latter moderate winds and squally weather, with rain.
6	5	....	NW. by N.	.....	
7	5	....	.....	....	Pumps carefully attended; 20 days out.
8	5	....	.....	.....	
9	4	....	.....	.....	Lat. by obs'n. 02 34 N.
10	4	...	....	SE.....	
11	4	....	.....	.....	
12	4	....	.....	.....	
1	4	....	.....	.....	
2	4	....	.....	E. SE.....	
3	4	....	.....	.....	
4	4	....	.....	.....	
5	6	....	.....	.....	

A journal of the transactions, &c.—Continued.

H.	K.	F.	Courses.	Winds.	
6	6	....	.....	.....	
7	6	....	.....	S. SE.....	
8	6	....	.....	.....	
9	5	....	.....	.....	
10	5	....	.....	.....	
11	5	....	.....	.....	
12	5	....	.....	.....	

SUNDAY, 2D JUNE.

1	4	....	NW. by N.	SE.	The first part of these 24 hours commences with light winds and squally weather, with rain.
2	4	....	.....	.....	
3	4	....	.....	.....	
4	4	....	.....	.....	Middle part moderate winds and fine weather.
5	2	...	.....	.....	
6	2	...	NW. $\frac{1}{2}$ N.	.....	Latter part light winds and clear pleasant weather. All drawing sail set. Pumps attended to. 21 days out.
7	4	....	.....	.....	
8	4	....	.....	.....	
9	4	....	NW.....	.....	Lat. by obs'n 3 34 N. Long. per chr. 42 53 W.
10	5	....	.....	.....	
11	5	....	.....	.....	
12	5	....	.....	.....	
1	5	....	.....	.....	
2	5	....	.....	.....	
3	5	....	.....	.....	
4	5	....	.....	.....	
5	5	....	.....	.....	
6	5	....	.....	.....	
7	5	....	.....	.....	
8	4	....	NW. by N.	.....	
9	4	....	.....	.....	
10	4	....	.....	.....	
11	4	....	.....	.....	
12	4	....	.....	.....	

124 MONDAY, 3D JUNE.

1	4	...	NW. by N.	....SE....	The first part of these 24 hours light winds and clear pleasant weather.
2	4	....	....do....	....do....	
3	4	....	....do....	....do....	Middle and latter part continues as above. All drawing sail set. Crew busily employed. Pumps attended to.
4	4	....	....do....	....do...	
5	4	....	....do....	...do....	
6	4	....	....do....	...do....	
7	4	....	....do....	....do....	Lat. by obs'n 4 38 N.
8	4	....	....do....	....do....	

A journal of the transactions, &c.—Continued.

H.	K.	F.	Courses.	Winds.	
9	3	....	NW. by N.	....SE....	
10	3	....	....do....	....do....	
11	3	....	....do....	....do....	
12	3	....	....do....	....do....	
1	3	....	....do....	....do....	
2	3	....	....do....	....do....	
3	4	....	....do....	....do....	
4	4	....	....do....	....do....	
5	4	....	....do....	....do....	
6	4	....	.. do	....do....	
7	3	....	....do....	....do....	
8	3	....	....do....	... do....	
9	3	...	...do....	....do....	..
10	3	....	....do....	....do....	
11	2	....	....do....	...do....	
12	2	....	....do....	....do....	

TUESDAY, 4TH JUNE.

1	3	...	NW. ½ N.	From NE. to SE.	The first part of these 24 hours light baffling breezes and variable weather.
2	3	....	.....	....do....	
3	3	...	.....	....do....	Middle part light airs, and cloudy weather.
4	3	....	.....	....do....	
5	2	....	.....	....do....	Latter part light breezes and variable weather. Crew busily employed. Pumps attended to.
6	2	....	.....	... do....	
7	2	....	.....	....do....	
8	2	....	.....	....do....	Lat. by obs'n 5 29 N. Long. per chr. 45 15 W.
9	2	....	.....	....do....	
10	2	...	.....	.. do....	23 days out.
11	1	5	.....	....do....	
12	1	5	....	....do....	
1	1	5	.....	....do....	
2	1	5	.....	....do ...	
3	1	5	.....	....do....	
4	1	5	.....	... do....	
5	1	5	.....	... do....	
6	1	5	.....	....do ...	
7	2	5	.....	... do....	
8	2	5	.....	....do....	
9	3	....	.....	....do...	
10	3	....	.....	....do....	
11	3	...	.....	....do....	
12	3	....	.....	....do....	

A journal of the transactions, &c.—Continued.

125 WEDNESDAY, 5TH JUNE.

H.	K.	F.	Courses.	Winds.	
1	2	....	NW.byN.	NE.trades.	This day commences with light winds and fine weather; all possible sail set.
2	2	....	....do....	....do....	
3	2	....	....do....	....do....	
4	3	....	....do....	....do....	Middle and latter parts continues as above throughout; crew busily employed.
5	3	....	....do....	....do....	
6	3	....	....do....	....do....	
7	4	....	....do....	....do....	Pumps carefully attended. 24 days out.
8	5	....	....do....	....do....	
9	5	....	....do....	....do....	Lat. by obs. 6 42 N. Long. per chr. 46 35.
10	4	....	....do....	....do....	
11	4	....	....do....	....do....	
12	4	....	....do....	....do....	
1	4	....	....do....	....do....	
2	3	....	.... do....	....do....	
3	3	....	....do....	.... do....	
4	3	....	....do....	....do....	
5	3	....	....do....	....do....	
6	4	....	....do....	....do....	
7	4	....	....do....	....do....	
8	4	....	....do....	....do....	
9	4	....	....do....	....do....	
10	3	....	....do....	....do....	
11	3	....	....do....	....do....	
12	3	....	....do....	....do....	

THURSDAY, 6TH.

1	3	....	NW.byN.	Trades...	In first part of these 24 hours commences with light winds and fine weather.
2	3	....	....do....	....do....	
3	3	....	....do....	.... do....	
4	4	....	....do....	....do....	Middle part brisk winds and heavy passing clouds.
5	4	....	....do....	....do....	
6	4	....	....do....	....do....	Latter part moderate winds and cloudy weather. All possible sail set.
7	5	....	....do....	....do....	
8	6	....	....do....	....do....	Pumps attended to.
9	7	....	....do....	....do....	Lat. by obs. 8 45 N. 25 days out.
10	7	....	....do....	....do	
11	7	....	....do....	....do....	
12	7	....	....do....	....do....	
1	7	....	....do....	....do....	
2	7	....	....do....	....do....	
3	7	....	....do....	....do....	
4	7	....	....do....	....do....	
5	4	....	....do....	....do....	
6	4	....	....do....	....do....	

1391

A journal of the transactions, &c.—Continued.

H.	K.	F.	Courses.	Winds.	
7	4	....	NW. by N.	Trades...	
8	4	....	....do....	....do....	
9	5	....	....do....	....do....	
10	5	....	....do....	....do....	
11	5	....	....do....	....do....	
12	5	....	....do....	....do....	

126 FRIDAY, 7TH JUNE.

1	5	....	NW. $\frac{3}{4}$ N.	NE.....	The first part of this 24 hours light winds and cloudy weather.
2	5	....	.....	.....	
3	5	....	.....	.....	Middle part squally, with rain. Took in the light sails.
4	5	....	.....	.....	
5	5	....	.....	.....	Latter part light baffling winds, and thick squally weather, with rain.
6	5	....	.....	.....	
7	6	....	NW by N.	.....	Pumps attended to.
8	6	....	.....	.....	26 days out.
9	7	....	.....	.....	
10	7	....	.....	.....	
11	7	...	.....	.....	
12	7	....	.....	.....	
1	7	....	.....	.....	
2	5	....	.....	.....	
3	5	....	.....	.....	
4	5	....	.....	.....	
5	5	....	.....	.....	
6	5	....	.....	.....	
7	3	....	.....	.....	
8	3	....	.....	.....	
9	2	...	.....	.....	
10	2	....	NW....	N. NE....	
11	3	....	.....	.....	
12	3	....	.....	.....	

SATURDAY, 8TH JUNE.

1	3	....	NW.by N.	From NE.	This day commences with light baffling winds and squally weather, with rain.
2	3	....	....do....	to SE....	
3	3	....	....do....	....do....	
4	3	....	....do....	....do....	Middle part moderate winds and heavy passing clouds.
5	3	....	....do....	....do....	
6	3	....	....do....	....do....	Latter part light winds and variable weather. All possible sails set.
7	3	....	....do...	....do....	
8	3	....	....do....	....do....	Pumps attended to. 27 days out.

A journal of the transactions, &c.—Continued.

H.	K.	F.	Courses.	Winds.	
9	2	....	NW. by W.	NE. to SE.	Lat by obs. 11 41 N. Long. per chr. 52 16 W.
10	2	....	....do....	....do....	
11	3	....	....do....	....do....	
12	3	....	....do....	....do....	
1	5	....	....do....	....do....	
2	5	....	....do....	....do....	
3	5	....	....do....	....do....	
4	5	....	....do....	....do....	
5	4	....	....do....	....do....	
6	3	....	....do....	....do....	
7	3	....	....do....	....do....	
8	3	....	....do....	....do....	
9	3	....	....do....	....do....	
10	3	....	....do....	....do....	
11	3	....	....do....	....do....	
12	3	....	....do....	....do....	

127 SUNDAY, 9TH JUNE.

1	4	....	NW. by N.	From E. SE	This day commences with moderate
2	4	....	....do....	to NE.	winds and variable weather.
3	5	....	....do....	....do....	Middle part fresh winds and dark
4	5	....	....do....	....do....	squally weather, with heavy rain
5	5	....	....do....	....do....	squalls; took in the light sails.
6	6	....	....do....	....do....	Latter part brisk winds and fine
7	6	....	....do....	...do....	weather; made all sail.
8	6	....	....do....	....do....	Pumps attended to. 28 days out.
9	6	....	....do....	....do....	Lat. by obs. 13 24 N.
10	6	....	....do....	....do....	
11	6	....	....do....	....do....	
12	6	....	....do....	....do....	
1	7	....	....do....	....do....	
2	7	....	....do....	....do....	
3	7	....	....do....	....do....	
4	7	....	....do....	....do....	
5	7	....	....do....	....do....	
6	7	....	....do....	....do....	
7	8	....	....do....	....do....	
8	8	....	....do....	....do....	
9	7	....	....do....	....do....	
10	6	....	....do....	....do....	
11	6	....	....do....	....do....	
12	6	....	....do....	....do....	

A journal of the transactions, &c.—Continued.

MONDAY, 10TH JUNE.

H.	K.	F.	Courses.	Winds.	
1	7	....	NW. by N.	Trades...	This day commences with fresh winds and cloudy weather, with rain squalls.
2	7	...	....do....	....do....	
3	7	....	....do....	....do...	
4	7	....	....do....	... do....	Middle part strong winds and clear pleasant weather.
5	7	....	....do....	....do....	
6	7	...	....do....	....do....	Latter part moderate winds and cloudy weather, with rain.
7	8	...	....do....	....do....	
8	8	....	...do....	....do....	Studding-sails set alow and aloft.
9	8	...	....do....	....do....	Pumps attended to.
10	8	....	....do....	....do...	Lat. by obs. 15 43 N.
11	9	....	....do....	....do...	
12	9	....	....do....	....do....	
1	9	...	....do....	....do....	
2	8	....	....do....	....do....	
3	8	....	....do....	....do...	
4	8	....	....do....	....do....	
5	8	....	....do....	....do....	
6	7	....	....do....	... do....	
7	7	....	....do....	....do....	
8	7	....	....do....	....do....	
9	6	....	....do....	....do...	
10	6	....	....do....	....do....	
11	6	....	....do....	....do....	
12	6	....	....do....	....do....	

128 TUESDAY, 11TH JUNE.

1	7	....	NW. by N.	Trades...	The first part of these 24 hours fine winds and passing rain squalls.
2	7	....	...do....	....do....	
3	7	...	....do....	....do....	Middle part fresh winds and cloudy weather.
4	7	....	....do....	....do....	
5	6	....	....do....	....do....	Latter part light winds and cloudy weather, with rain. All possible sail set.
6	6	....	....do....	....do....	
7	7	....	....do	....do...	
8	7	....	....do...	....do....	Pumps attended to. 30 days out.
9	7	...	....do....	....do....	Lat. by obs. 17 41 N.
10	8	....	....do....	....do....	Long. per chr. 57 50 W.
11	8	....	....do....	.. do....	
12	8	....	....do....	....do....	
1	8	....	....do....	....do....	
2	7	....	....do....	....do...	
3	7	....	....do....	....do....	
4	7	....	....do....	....do....	
5	6	....	....do....	....do....	
6	6	....	....do....	....do ...	

A journal of the transactions, &c.—Continued.

H.	K.	F.	Courses.	Wind.	
7	6	....	NW. by N.	Trades...	
8	6	....	....do....	....do....	
9	6	....	....do....	....do ...	
10	6	....	....do....	....do....	
11	6	....	....do....	....do....	
12	6	....	....do....	....do ...	

WEDNESDAY, 12TH JUNE.

1	5	....	NW. by N.	Trades...	The first part of this day moderate winds and fine weather. Saw a brig standing to the eastward.
2	5	....	....do....	....do....	
3	5	...	....do....	....do....	
4	5	...	... do....	....do....	Middle part brisk winds and heavy passing clouds.
5	5	....	....do.. .	...do....	
6	5	....	....do....	....do....	Latter part light winds and cloudy weather with rain squalls.
7	5	....	...do....	....do....	
8	6	....	... do....	....do....	All possible sail set.
9	7	....	....do....	....do....	Pumps attended to. 31 days out.
10	7	....	....do....	....do....	Lat. by obs. 19 34 N.
11	7	....	....do....	....do....	
12	7	....	....do....	....do....	
1	7	....	...do....	....do....	
2	7	...	....do....	....do....	
3	7	....	....do....	....do....	
4	6	....	....do....	....do....	
5	6	....	....do....	....do....	
6	6	....	....do....	....do....	
7	6	....	....do....	....do....	
8	5	....	....do....	....do....	
9	5	....	....do....	....do....	
10	5	....	...do....	....do....	
11	4	....	....do....	....do....	
12	4	....	....do....	....do....	

129 THURSDAY, 13TH JUNE.

1	5	....	NW. by N.	Trades....	The first part of these 24 hours moderate winds and variable weather. Two brigs in sight steering about west.
2	5	....	....do....	....do....	
3	5	...	....do....	....do...	
4	5	....	....do....	....do....	
5	6	....	....do....	....do....	Middle part, fine winds and clear pleasant weather.
6	6	....	....do....	....do....	
7	7	....	....do....	....do....	Latter part, light winds and fine weather; studding-sails set alow and aloft.
8	7	....	....do....	....do....	
9	6	....	....do....	....do....	

A journal of the transactions, &c.—Continued.

H.	K.	F.	Courses.	Winds.	
10	6	...	N.W. by N.	Trades....	Pumps attended to.
11	6	....	....do....	....do....	32 days out.
12	7	....	....do....	....do....	Lat. by obs. 21 04 N.
1	7	....	....do....	....do....	
2	7	....	....do....	....do....	
3	7	....	....do....	....do....	
4	6	....	....do....	....do....	
5	6	....	....do....	....do....	
6	6	....	....do....	....do....	
7	5	...	....do....	....do....	
8	5	...	....do....	....do....	
9	5	....	....do....	....do....	
10	5	....	....do....	....do....	
11	5	....	....do....	....do....	
12	5	....	....do....	....do....	

FRIDAY, 14TH JUNE.

1	3	....	N.W.byN.	S. E.....	The first part of these 24 hours light
2	3	...	....do....	....do....	breezes and fine weather.
3	3	...	..do....	....do ..	Middle and latter part continues as
4	3	....	....do....	....do....	above throughout.
5	3	....	....do ..	....do....	Studding-sails set alow and aloft.
6	3	....	....do....	...do....	Saw a brig standing to eastward.
7	3	....	....do....	....do...	Lat. by obs. 22 21 N.
8	3	...	....do....	....do....	
9	4	....	....do....	....do....	
10	4	...	....do....	....do....	
11	4	....	....do....	....do....	
12	4	....	....do....	....do....	
1	3	....	....do....	....do....	
2	3	....	....do....	....do....	
3	3	....	.. .do....	....do....	
4	3	....	....do....	S. SE.....	
5	3	....	....do....	....do....	
6	4	....	....do....	....do....	
7	4	....	....do....	....do....	
8	4	....	....do....	....do....	
9	3	....	....do....	....do....	
10	3	....	....do....	S. W.....	
11	3	....	....do....	...do....	
12	3	....	....do....	....do....	

A journal of the transactions, &c.—Continued.

130 SATURDAY, 15TH.

H.	K.	F.	Courses.	Winds.	
1	3	....	N. W. ½ N.	From W.	The first part of these 24 hours light baffling winds and thick rainy weather.
2	3	....	....do....	NW. to SW.	
3	3	....	....do....	....do....	
4	3	....	....do....	....do....	Middle part continues as above.
5	2	....	....do....	....do...	Latter part, light winds and thick hazy weather.
6	2	....	....do....	...do....	
7	2	...	....do....	....do....	All sail set to the best advantage.
8	3	....	...do...	....do....	Pumps attended.
9	3	...	... do....	....do....	34 days out.
10	3	.. .	....do....	....do....	
11	3	....	...do....	....do....	
12	3	....	....do....	....do...	
1	3	....	....do....	....do....	
2	4	....	....do....	....do....	
3	4	...	....do....	...do....	
4	4	....	... do....	... do....	
5	5	....	....do....	....do....	
6	5	....	... do....	....do....	
7	5	....	... do....	....do...	
8	5	....	....do....	....do. ..	
9	5	....	...do....	....do....	
10	5	...	....do....	....do....	
11	5	....	....do....	....do...	
12	5	....	....do....	....do....	

SUNDAY, 16TH JUNE.

1	3	..	N. W. ½ N.	Variable...	The first part of these 24 hours light baffling winds and thick rainy weather.
2	3	...	....do....	.. do...	
3	3	...	....do....	.. do....	
4	3	..	...do....	...do....	Middle part, calm cloudy weather.
5	2	...	...do....	... do ...	Latter part, light breezes, and clear pleasant weather. Stud'g-sails set alow and aloft.
6	2	...	....do....	...do....	
7	2	...	....do....	...do....	
8	2	...	...do....	...do....	Pumps carefully attended.
9	3	...	.. do...	...do....	Lat. by obs. 24 19 N.
10	2	....	.. do....	....do....	Long. per chr. 64 00.
11	0	....	....do ..	...do ..	
12	0	....	...do...	....do....	
1	0	....	....do....	...do....	
2	0	...	... do...	...do....	
3	0	....	....do...	....do ..	
4	0	....	...do....	....do....	
5	3	....	....do....	....do....	

A journal of the transactions, &c.—Continued.

H.	K.	F.	Courses.	Winds.	
6	3	....	NW. ½ N.	...S. E....	
7	3	....	....do....	....do....	
8	3	....	....do....	....do....	
9	3	....	....do....	....do....	
10	4	....	....do....	....do....	
11	4	...	....do....	....do ...	
12	4	....	....do....	...do....	

131 MONDAY, 17TH JUNE.

1	3	....	...NW...	....SE....	The first part of this day light winds and clear pleasant weather. A brig in sight, steering about NE.
2	4	....	....do....	....do....	
3	4	...	....do....	...do....	
4	4	...	....do....	....do....	Middle part, light winds and heavy passing clouds.
5	4	...	....do....	....do....	
6	4	....	....do....	....do....	Latter part continues as above, all possible sail set, crew busily employed.
7	3	....	....do....	....do....	
8	3	...	... do....	....do....	
9	3	5	....do...	....do....	Pumps attended to.
10	3	5	...do....	....do....	Course NW. Distance 100. D lat. 70 7. Depart 70.7. Lat by D. R. 25 30 N. Sun obs. Diff. long. 78. Long. per L. 65 18. W.
11	3	5	....do....	....do....	
12	3	5	...do....	....do....	
1	4	....	...do...	....do....	
2	5	...	... do....	....do ...	
3	5	....	... do....	....do....	
4	5	....	....do....	....do....	
5	5	....	....do....	....do....	
6	5	....	....do....	.. do....	
7	5	....	....do...	....do....	
8	5	...	...do....	...do....	
9	5	...	....do....	....do....	
10	4	....	...do....	....do....	
11	4	...	....do....	....do....	
12	3	...	....do....	....do....	

TUESDAY, 18TH JUNE.

1	3	....	...NW...	South....	The first of these 24 hours light winds and cloudy, rainy weather.
2	3	....	...do....	....do....	
3	3	....	....do....	....do....	Middle moderate winds and hazy weather.
4	4	....	....do....	....do....	
5	4	....	... do....	....do....	Latter part fresh winds and fine weather. All possible sail set. 37 days out.
6	4	....	... do...	....do....	
7	5	....	....do....	....do....	

A journal of the transactions, &c.—Continued.

H.	K.	F.	Courses.	Winds.	
8	5	....	...NW....	South....	Pumps attended to.
9	5	....	....do....	....do....	Lat. by obs'n 27 16 N.
10	5	....	NW. ½N..	S by W...	Long. per chr. 76 12.
11	5	....	....do....	....do....	
12	6	....	....do....	....do....	
1	6	....	....do....	....do....	
2	6	....	....do....	....do....	
3	6	....	....do....	....do....	
4	6	....	....do ...	....do....	
5	7	....	....do....	....do....	
6	7	...	....do....	....do....	
7	7	5	....do....	....do....	
8	7	5	....do....	....do....	
9	8	5	....do....	...SW....	
10	8	5	....do....	....do....	
11	8	5	....do....	....do....	
12	8	5	....do....	....do....	

132 WEDNESDAY, 19TH JUNE.

1	9	....	NW. ½ N.	S. by W..	The first part of this day pleasant gales and fine weather.
2	9	....	....do....	....do....	
3	9	....	....do...	....do....	Middle part more moderate and squally weather, with rain.
4	9	....	...do....	....do....	
5	8	....	....do....	....do....	Took in the light sails.
6	8	....	....do....	....do....	At 2 a. m., the wind came from the NW. in squalls.
7	8	....	....do....	....do....	
8	8	....	....do....	....do....	Latter part strong winds and cloudy weather; made sail.
9	8	....	....do....	....do....	
10	7	....	....do....	....do...	Lat. by obs'n, 29 28 N.
11	7	....	....do....	....do....	
12	7	....	....do....	....do ...	
1	5	....	....do....	....do....	
2	5	....	....do....	....do....	
3	3	....	....do....	....do....	
4	3	....	....do....	...NW...	
5	6	....	....do....	....do....	
6	6	...	....do....	....do....	
7	6	....	....do....	....do....	
8	6	....	....do....	....do....	
9	9	....	....do....	....do....	
10	9	....	....do....	....do....	
11	9	....	....do....	....do....	
12	9	....	....do....	S. by W..	

A journal of the transactions, &c.—Continued.

THURSDAY, 20TH JUNE.

H.	K.	F.	Courses.	Winds.	
1	9	....	NW ½ N..	Variable..	The first part of this day variable winds and weather; at 1.30 p. m. the wind hauled suddenly to the NW., from thence around the compass, blowing a hurricane for a few moments.
2	9	....	..N. NE..	....do....	
3	2	....	...NW...	....do....	
4	2	....	....do....	....do....	
5	1	....	....do....	....do....	
6	1	....	NW. ½ N.	....do....	
7	6	....	...do....	....do....	Middle part light winds and fine weather; made sail.
8	6	....	....do....	....do....	
9	5	....	....do..	....do...	Latter part calm and variable, weather. 39 days out.
10	5	....	...do....	....do....	
11	5	....	....do....	...do...	Pumps attended to.
12	3	....	....do....	....do...	Sun obs'n.
1	5	....	....do....	...do...	
2	5	....	....do....	....do....	
3	5	....	....do....	....do....	
4	5	....	....do. ..	...do....	
5	3	....	....do....	....do....	
6	2	....	...do....	....do....	
7	0	....	Calm.....	Calm.....	
8	0	....	....do....	....do....	
9	0	....	....do....	....do....	
10	0	....	....do....	....do....	
11	0	....	....do....	....do....	
12	0	....	....do....	....do....	

133 FRIDAY, 21ST JUNE.

1	1	....	NW. ½ N	South.....	The first part of this day light baffling winds and variable weather. Several vessels, in sight. Exchanged signals with a brig.
2	1	....	.....	.....	
3	1	....	.....	.....	
4	1	....	.....	.....	
5	3	....	.....	SW.....	Broached a bbl. bread.
6	3	....	.....	.....	Middle part light winds and heavy passing clouds, with heavy rain squalls.
7	5	....	.....	.....	
8	3	....	.....	W.SW...	
9	4	....	.....	.....	Latter part light winds and fine weather. All drawing sail set.
10	4	....	.....	.....	
11	4	....	.....	.....	Pumps attended.
12	4	....	.....	.....	Lat. by obs. 31 52 N.
1	4	....	.....	.....	
2	4	....	.....	.....	
3	4	....	.....	.....	
4	4	....	.....	.....	
5	5	....	N. by W..	W. by N..	
6	5	....	.....	.....	
7	5	....	.....	.....	

A journal of the transactions, &c.—Continued.

H	K	F.	Courses.	Winds.	
8	5	...	.....	.....	
9	4	....	.....	.....	
10	4	....	.....	.....	
11	4	....	.....	.....	
12	4	...	.....	.....	

SATURDAY, 22D JUNE.

1	4	....	N.NW....	West.....	This day commences with light winds and cloudy rainy weather. Passed a brig standing to the eastward.
2	4	....	.....	.....	
3	5	....	.....	.....	
4	5	...	.....	.....	Middle part continues as above. At 12 midnight passed a bark standing to the E.
5	4	....	NW. ½ N	W. by S...	
6	4	...	.....	.....	
7	5	....	.....	.....	Latter part light winds and variable weather.
8	5	....	.....	.....	
9	5	....	.....	.....	Pumps attended to.
10	5	....	.....	.....	41 days out.
11	5	....	.....	.....	Sun obs.
12	5	....	NW. by N.	.....	
1	4	....	.....	.....	
2	4	....	.....	.....	
3	4	....	.....	.....	
4	4	....	.....	.....	
5	4	....	.....	.....	
6	4	....	N.NW...	West.....	
7	3	....	.....	.....	
8	3	....	.....	.....	
9	3	....	.....	.....	
10	3	....	.....	.....	
11	2	....	.....	.....	
12	2	....	.....	.....	

134 SUNDAY, 23D JUNE.

1	4	....	NW.....	W.SW...	The first part of these 24 hours light winds and cloudy rainy weather.
2	4	....	.....	.....	
3	4	...	.....	.....	Middle part light temporary airs and variable weather.
4	4	....	.....	.....	
5	2	....	.....	.....	Latter part, light winds and clear pleasant weather.
6	2	....	NW. ½ W.	SW. by W.	
7	4	....	.....	½ W.....	Exchanged signals with an English brig. A bark in sight.
8	4	....	.....	.....	
9	3	....	.....	.....	Lat. by obs. 34 05 N.
10	3	....	.....	.....	
11	2	....	.....	.....	
12	0	....	Calm.....	Calm.....	

A journal of the transactions, &c.—Continued.

H.	K.	F.	Courses.	Winds.	
1	0	....	.....	....	
2	0	....	.....	.....	
3	0	....	.....	.....	
4	0	....	....	.....	
5	3	....	.....	.....	
6	3	....	W.NW...	North....	
7	3	....	....	.....	
8	3	....	.....	.....	
9	3	....	.....	.....	
10	2	....	.....	.....	
11	2	....	.....	.....	
12	1	....	.....	.....	

MONDAY, 24TH JUNE.

1	3	....	West.....	Variable..	This day commences with light baffling airs and clear pleasant weather.
2	3	....	...do....	....do....	
3	2	....	W.NW...	...do...	Middle part light breezes and cloudy weather.
4	2	....	....do....	....do....	
5	1	....	NW.....	....do....	Latter part light winds and fine weather. All possible sail set.
6	1	....	....do....	....do....	
7	1	....	NW. ½ N.	....do....	43 days out.
8	1	....	.....	....do....	Pumps attended to.
9	1	....	.....	....do....	Lat. by obs. 34 43 N.
10	1	....	.....	....do....	Long. per chr. 73 24 W.
11	1	....	.....	....do....	
12	2	....	.....	....do....	
1	2	....	.....	....do....	
2	2	....	.....	....do....	
3	2	....	.....	....do....	
4	2	....	.....	....do....	
5	2	....	.....	....do....	
6	2	....	.....	....do....	
7	2	....	.....	....do....	
8	3	....	.....	SW.....	
9	6	....	.....	.....	
10	6	....	.....	.....	
11	6	....	.....	.....	
12	6	....	.....	.....	

135 TUESDAY, 25TH JUNE.

1	0	....	.....	.....	This day commences with calm, clear weather. At 5 p. m. a light breeze sprung up from the N. and E.
2	0	....	.....	.....	
3	0	....	.....	.....	
4	0	....	.....	.....	Middle part, light winds and clear

A journal of the transactions, &c.—Continued.

H.	K.	F.	Courses.	Winds.	
5	0	....	.....	.....	pleasant weather. Set the top-mast
6	1	5	NW. ½ N..	NE. by N.	and lower studding-sails.
7	1	5	.....	½ N.....	Latter part, light winds and fine
8	1	5	.....	.....	weather. All possible sail set.
9	3	....	.....	.....	Pumps attended to.
10	3	....	.....	.....	Lat. by obs., 36° 04′.
11	5	....	NW. by N	E. NE....	
12	5	....	.....	.....	
1	5	....	.....	.....	
2	5	....	....	.....	
3	4	....	.....	.....	
4	4	....	.....	.....	
5	4	5	.....	.....	
6	4	5	.....	.....	
7	4	5	.....	.....	
8	3	....	.....	.....	
9	5	....	.....	.....	
10	5	....	.....	.....	
11	5	....	.....	.....	
12	5	....	.....	.....	

WEDNESDAY, 26TH JUNE.

1	4	....	NW.	S. SE.. .	The first part of this day, light winds
2	4	....	..do.....	.....	and fine weather.
3	4	...	..do.....	.....	Middle part continues as above. At
4	4	....	..do.....	.....	1 a. m. shorten sail and hauled on
5	4	....	N. NW...	.....	the wind.
6	4	....	.....	.....	Latter part, fine wind and weather.
7	4	...	.....	.....	At 4 a. m. squared away and made
8	4	...	.....	.....	all possible sail. At 6 30 the steamer
9	4	....	.....	.....	Quaker City spoke us; was ordered
10	4	..	.....	.....	to heave to, and ordered the capt. on
11	3	....	....	.....	board with his papers. His request
12	3	...	... .	.....	being complied with, was ordered in
1	3	5	.....	.....	Hampton Roads.
2	1	..	E. NE. ..	SE.....	A 8 a. m. took a pilot. At 11 do. came
3	1	....	.....	.....	to anchor in the Roads.
4	1	....	.....	.....	
5	5	....	.....	.....	
6	5	....	.....	.....	
7	5	....	.....	.....	
8	5	....	.....	.....	
9	5	....	.....	.....	
10	5	....	.....	.....	
11	...	....	.....	.....	
12	...	....	.....	.....	

136 HAMPTON ROADS, *June* 26.

About 3.30 p. m. Lieut. Bryant, Mr. Patterson, master, and a prize crew of eight men came on board, from the U. S. ship Minnesota, to take the barque to N. York, and there to deliver her, with the papers of the vessel, to the U. S. district judge. The master went on shore to take passage for New York via Baltimore steamer.

Rec'd from Minnesota the following articles, viz: 100 lbs. beef, 80 lbs. pork, 60 lbs. bread, 20 q'ts beans, 4 lbs. tea, 20 lbs. sugar, 6 lbs. cheese, 120 galls. water, and ¼ cord wood. At about 4 p. m. weighed anchor, made all sail, and proceeded to sea. About 6 discharged the pilot. The U. S. st'r "Quaker City" came near us and hailed. She had been firing several heavy guns at some object on shore.

Left at Hampton Roads "Minnesota," "Cumberland," "Union," and "Star."

137 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Saturday the first day of August, in the year of our Lord one thousand eight hundred and sixty-three.

Present: The Honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE BARQUE SALLY MAGEE, her tackle, &c., and cargo. } In prize.

This cause having been heard on the libel and proofs and testimony taken in preparatorio, and counsel for libellant and claimant having been heard and due deliberation being had in the premises, now, on motion of E Delafield Smith, attorney of the United States, it is ordered, adjudged, and decreed by the court that the barque "Sally Magee," her tackle, &c., and cargo be condemned and forfeited to the United States on the ground that the said captured property is lawful prize of war. And it is further ordered, adjudged, and decreed that the stipulators for value herein, Charles M. Fry and Richard Irwin cause their stipulation to be fulfilled, and pay into the registry of the court the sum of $69,180 00, the appraised value of the cargo of the "Sally Magee" bonded by them.

And the said vessel having been heretofore sold under an interlocutory order of the court and the proceeds thereof, amounting to the sum of $8,150, having been duly deposited as required by law, it is further ordered, adjudged,

138 and decreed that the costs and disbursements herein be adjusted and paid according to law; that unless an appeal be taken within the time limited by law, the prize commissioners shall proceed under the direction of the court, as soon as possible after the entry of this decree, to take the requisite evidence, and report the same to the court, to the end that a final decree may be made herein, determining what public ships of the United States are entitled to share in the prize, and whether the prize was of superior, equal, or inferior force to the vessel or vessels making the capture.

SAM'L R. BETTS.

Filed 1st August, 1863.

139 U. S. district court.

THE UNITED STATES, &c.,
vs.
THE BARK SALLY MAGEE, her tackle, &c., and cargo. } In prize.

SIRS: Please take notice that the claimants, Charles M. Fry, Overton M.

Price, and Chapman J. Leigh, hereby appeal to the Supreme Court of the United States pursuant to section 7 of the act of Congress approved March 3, 1863, from so much of the final decree rendered in this cause as condemns and forfeits as lawful prize four hundred and seventy-three bags coffee marked X, and fourteen hundred and fifty bags of coffee marked D M, part cargo of the said barque Sally Magee, with costs and disbursements.

Yours, &c.,

D. D. LORD, *Proctor for cl'm'ts.*

To E. DELAFIELD SMITH, *U. S. Dis't Att'y.*
GEORGE F. BETTS, Esq., *Clerk.*

140 Endorsed: 16, 356-379. In prize. U. S. district court. The United States *vs.* the barque Sally Magee and cargo. Notice of appeal by Fry & Co., as to 473 bags and 1,450 bags coffee on their own behalf. D. D. Lord, p'r cl'm'ts.
Filed 11th August, 1863.

Due service of within notice of appeal admitted.
N. Y. Aug. 15, 1863.

E. DELAFIELD SMITH, *U. S. Dis't Att'y.*

141 U. S. district court.

THE UNITED STATES
vs.
THE BARK SALLY MAGEE, her tackle, &c., and cargo.

SIRS: Take notice that the claimants, Charles M. Fry, Overton M. Price, and Chapman J. Leigh, on behalf of Charles Coleman, hereby appeal from so much of the final decree entered in the above cause as condemns and forfeits as lawful prize 1,529 bags of coffee marked E D and ten half barrels of tapioca, part of the cargo of the said barque Sally Magee, to the Supreme Court of the United States, in pursuance of section 7 of the act of Congress approved March 3, 1863, with costs and disbursements.

Yours, &c.,

D. D. LORD, *Proctor for cl'm'ts.*

To E. DELAFIELD SMITH, Esq., *U. S. Dis't Att'y.*
GEORGE F. BETTS, Esq., *Clerk.*

142 Endorsed: 16, 356-379. In prize. U. S. district court. The United States *vs.* the barque Sally Magee and cargo. Notice of appeal by Fry & Co., on behalf of Charles Coleman, as to 1,529 bags coffee and 10 half bbls. tapioca. D. D. Lord, proctor cl'm'ts.
Filed 11th August, 1863.

Due service of above notice of appeal admitted.
N. Y. August 15, 1863.

E. DELAFIELD SMITH, *U. S. Dis't Att'y.*

143 By the Honorable Samuel R. Betts, judge of the district court of the United States of America for the southern district of New York, to the attorney of the United States for the southern district of New York on behalf of the United States of America.

Whereas an appeal hath been taken from a final sentence in the district court of the United States for the southern district of New York from the sentence and proceedings then pending between the United States of America against the barque Sallie Magee and her cargo, and Charles M. Fry, Overton M. Price, and Chapman J. Leigh, claimants of 1,529 bags of coffee

marked E D, and 10 half barrels tapioca, on behalf of Charles Coleman and others.

And the said Charles M. Fry, Overton M. Price, and Chapman J. Leigh, claimants of 473 bags of coffee, marked X, and 1,450 bags marked D M, part of the same cargo, and said appellants have filed the security required by law; which appeal is returnable at the next stated term of the Supreme Court of the United States of America, at the city of Washington, the first Monday of December next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand, at New York, in the second circuit, the
144 eighteenth day of August, in the year of our Lord one thousand eight hundred and sixty-three, and of the independence of the United States the eighty-eighth.

SAM'L R. BETTS.

Endorsed: 16, 356, 579. U. S. district court. The United States of America *vs.* the barque Sally Magee and her cargo. Citation. D. D. Lord, proctor for clai'ts.

Due service of a copy of within is hereby admitted.
N. Y., Aug. 18th, 1863.

E. DELAFIELD SMITH, *U. S. Dist. Att'y.*

Filed 18th Aug't, 1863.

145 *Bond for costs.*

District court of the United States of America for the southern district of New York, in the second circuit.

THE UNITED STATES OF AMERICA
vs.
THE BARQUE SALLY MAGEE AND HER CARGO. } On appeal.

Charles M. Fry, Overton M. Price, and Chapman J. Leigh, claimants of four hundred and seventy-three bags coffee, marked X, and fourteen hundred and fifty bags coffee, marked D M, of the cargo of the said barque Sally Magee, on their own behalf.

Know all men by these presents that we, Charles M. Fry & Co., by Wm. N. Price, att'y, and Richard Irvin are held and firmly bound unto the above-named the United States of America in the sum of two hundred and fifty dollars, to be paid to the said United States of America for the payment of which, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents; sealed with our seals and dated the eleventh day of August, in the year of our Lord one thousand eight hundred and sixty-three.

Whereas the above-named claimants and appellants have prosecuted an appeal to the Supreme Court of the United States of America in pursuance of the 7th section of the act of Congress approved March 3d, 1863, to reverse the decree rendered in the above emitled suit, by the judge of the district court of the United States for the southern district of New York:

Now, therefore, the condition of this obligation is such that if the above-named claimants and appellants shall prosecute their appeal to effect, and answer all damages and costs if they fail to make the said appeal good, then this obligation shall be void; otherwise, the same shall be and remain in full force and virtue.

CHAS. M. FRY & CO. [L. S.]
By WM. N. PRICE, *Att'y.*
RICH'D IRVIN. [L. S.]

Sealed and delivered, and taken and acknowledged, this 11th day of August, 1863, before me.

GEO. F. BETTS, *U. S. Com'r.*

146 THE UNITED STATES OF AMERICA,
Southern district of New York, ss:

Richard Irvin, of the city of New York, being duly sworn, deposes and says that he is worth the sum of five hundred dollars over and above all his just debts and liabilities.

RICH'D IRVIN.

Sworn to this eleventh day of August, A. D 1863, before me.

GEO. F. BETTS, *U. S. Com'r.*

[Revenue stamp.]

I approve of the surety to the within bond.

SAM. R. BETTS.

Dated August 18th, 1863.
Filed this 18th, day of August, 1863.

147 *Bond for costs.*

District court of the United States of America for the southern district of New York, in the second circuit.

THE UNITED STATES OF AMERICA
vs.
THE BARQUE SALLY MAGEE AND HER CARGO. } On appeal.

Charles M. Fry, Overton M. Price, and Chapman J. Leigh, claimants of 1,529 bags coffee, marked E D, 10 half barrels tapioca, part of the cargo of said barque Sally Magee, on behalf of Charles Coleman and others.

Know all men by these presents that we, Charles M. Fry and others, by Wm. N. Price, att'y, and Richard Irvin are held and firmly bound unto the above-named the United States of America in the sum of two hundred and fifty dollars, to be paid to the said United States of America, for the payment of which, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents; sealed with our seals and dated the eleventh day of August, in the year of our Lord one thousand eight hundred and sixty-three.

Whereas the above-named claimants and appellants have prosecuted an appeal to the Supreme Court of the United States of America in pursuance of the 7th section of the act of Congress approved March 3d, 1863, to reverse the decree rendered in the above-entitled suit, by the judge of the district court of the United States for the southern district of New York:

Now, therefore, the condition of this obligation is such that if the above-named claimants and appellants shall prosecute their appeal to effect, and answer all damages and costs if they fail to make the said appeal good, then this obligation shall be void; otherwise, the same shall be and remain in full force and virtue.

CHA'S M. FRY & CO. [L. S.]
By WM H. PRICE, *Att'y.*
RICH'D IRVIN. [L. S.]

Sealed and delivered, and taken and acknowledged, this 11th day of August, 1863, before me.

GEO. F. BETTS, *U. S. Com'r.*

148 UNITED STATES OF AMERICA,
Southern district of New York, ss:

Richard Irvin, of the city of New York, being duly sworn, deposes and says that he is worth the sum of five hundred dollars over and above all his just debts and liabilities.

RICH'D IRVIN.

Sworn to this 11th day of August, A. D. 1863, before me.
GEO. F. BETTS, *U. S. Com'r.*

[Revenue stamp]

I approve of the above surety to the within bond.

SAM. R. BETTS.

Dated August 18th, 1863.
Filed this 18th day of August, 1863.

149 District court of the United States of America for the southern district of New York, in prize.

THE UNITED STATES OF AMERICA
against
THE BARQUE SALLY MAGEE AND HER CARGO. } In prize.

Charles M. Fry, Overton M. Price, and Chapman J. Leigh, claimants of fifteen hundred and twenty-nine bags coffee, marked E D, ten half barrels of tapioca, part of the cargo of the said barque Sally Magee, on behalf of Charles Coleman and others.

These claimants hereby appeal from the sentence and decree of this honorable court, made on Saturday, the first day of August, in the year of our Lord one thousand eight hundred and sixty-three, whereby the merchandize above specified was, as part of the cargo of the said barque, condemned and adjudged to be forfeited to the United States, and whereby the stipulators for value, Charles M. Fry and Richard Irvin, are ordered, adjudged, and decreed to pay into the registry of the court the sum of sixty-nine thousand one hundred and eighty dollars, the appraised value of the said cargo bonded by them; and as adjudges that the costs and disbursements as to such cargo be paid according to law; and as adjudges that the prize commissioners proceed to take proofs as to the sharing of the prize or its proceeds.

And the claimants and appellants offering security on their said appeal according to law, do now appeal from the said sentence and decree
150 as to the part of the cargo so claimed, do hereby pray that the said cause, and all proceedings therein, with the sentence, decree, and all other proceedings, be sent, according to the statute, to the Supreme Court of the United States of America, at the next term thereof, to be held at the Capitol, in the city of Washington, there to be heard and decided according to law, as well on the proceedings and proofs in the cause as upon such other and further proofs as the said Supreme Court shall deem just to admit and as the claimants shall offer, to the end that the said sentence may be reversed and annulled and the property restored to the claimants.

Dated New York, August 10th, 1863.

D. D. LORD, *Proctor for Cl'm'ts, Appellants.*

Endorsed: In prize. 16, 356, 579. U. S. district court. The United States of America *vs.* the barque Sally Magee and her cargo. Appeal. D. D. Lord, proctor cl'm'ts, app'l'ts.

Filed August 11th, 1863.

Due service of a copy of within appeal is hereby admitted.
N. Y., Aug't 15, 1863.

E. DELAFIELD SMITH, *U. S. Dist. Att'y.*

151 District court of the United States of America for the southern district of New York.

THE UNITED STATES OF AMERICA
against
THE BARQUE SALLY MAGEE AND HER CARGO. } In prize.

Charles M. Fry, Overton M. Price, and Chapman J. Leigh, claimants of four hundred and seventy-three bags coffee, marked X, and fourteen hundred and fifty bags coffee, marked D M, of the cargo of the said barque Sally Magee, on their own behalf.

These claimants hereby appeal from the sentence and decree of this honorable court, made on Saturday, the first day of August, in the year of our Lord one thousand eight hundred and sixty-three, whereby the merchandize above specified was, as part of the cargo of the said barque, condemned and adjudged to be forfeited to the United States, and whereby the stipulators for value, Charles M. Fry and Richard Irvin, are ordered, adjudged, and decreed to pay into the registry of the court the sum of sixty-nine thousand one hundred and eighty dollars, the appraised value of the said cargo bonded by them; and as adjudged that the costs and disbursements, as to such
152 cargo, be paid according to law; and as adjudges that the prize commissioners proceed to take proofs as to the sharing of the prize or its proceeds.

And the claimants and appellants offering security on their said appeal according to law, do now appeal from the said sentence and decree as to the part of the cargo so claimed, do hereby pray that the said cause, and all proceedings therein, with the sentence, decree, and all other proceedings, be sent, according to the statute, to the Supreme Court of the United States of America, at the next term thereof, to be held at the Capitol, in the city of Washington, there to be heard and decided according to law, as well on the proceedings and proofs in the cause as upon such other and further proofs as the said Supreme Court shall deem just to admit, and as the claimants shall offer, to the end that the said sentence may be reversed and annulled and the property restored to the claimants.

Dated New York, August 10th, 1863.

D. D. LORD, *Proc. for Claimants, Appellants.*

Endorsed: 16, 356, 579. In prize. U. S. district court. The United States of America *vs.* the barque Sally Magee and her cargo. Appeal. D. D. Lord, proctor cl'm'ts, app'l'ts.

Filed 11 August, 1863.

Due service of a copy of within appeal is hereby admitted.

E. DELAFIELD SMITH, *U. S. Dist. Att'y.*

N. Y., Aug't 15, 1863.

Filed December 26, 1863.

In the Supreme Court of the United States.

DECEMBER TERM, 1865.

In Prize.

CHARLES M. FRY, OVERTON M. PRICE, and CHAPMAN J. Leigh, on behalf of themselves and of Charles Coleman and others, claimants of the cargo of the bark Sally Magee, appellants,
vs.
THE UNITED STATES.
} No. 121.

APPEAL FROM THE DECREE OF THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

STATEMENT AND ARGUMENT FOR THE UNITED STATES.

JAMES SPEED,
Attorney General.
TITIAN J. COFFEY,
Special Counsel for United States.

In the Supreme Court of the United States.

DECEMBER TERM, 1865.

In Prize.

CHARLES M. FRY, OVERTON M. PRICE, and CHAPMAN J. Leigh, on behalf of themselves and of Charles Coleman and others, claimants of the cargo of the bark Sally Magee, appellants,
vs.
THE UNITED STATES. } No. 121.

APPEAL FROM THE DECREE OF THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

STATEMENT AND ARGUMENT FOR THE UNITED STATES.

The bark Sally Magee, laden with a cargo of coffee and tapioca, was captured on the Atlantic ocean, off Cape Henry, on the 26th of June, 1861, by the United States steamer Quaker City, Overton Carr, esq., commander, and was brought into the port of New York, where she was libelled as prize of war by the United States attorney for the southern district of New York on the 9th of July, 1861.

On the 23d of July, 1861, Alexander Soule, on behalf of David Currie, William Currie, George Allen, Isaac Davenport, jr., Robert Edmund, and James H. Blair, filed a claim to the said bark, alleging that the parties named were her true and only owners, and that they were all citizens of the United States, and denying her liability to capture. (Rec., p. 5.)

On the same day Charles M. Fry, Overton M. Price, and Chapman J. Leigh, composing the firm of C. M. Fry & Co., filed a claim to 1,529 bags of coffee, marked E. D., and 10 half barrels of tapioca, part of the cargo, alleging that Charles Coleman & Co., of Rio de Janeiro, Brazil, "as proctors and commission merchants there residing, were and had been directed to purchase and ship for the account and to the consignment of Edmund, Davenport & Co., coffee, if procurable,

at not over ten cents and a half per pound;" that Coleman & Co. made the shipment of the cargo above claimed to the consignment of Edmund, Davenport & Co. in said ship, "but that by the invoice thereof it appears that the said purchase was not made at or within the said limit of price, whereby and for which cause the said Edmund, Davenport & Co. refused to receive the same as purchased for their account, or otherwise than on the account of the said shippers thereof, namely, Charles Coleman & Co., and as agents, of necessity, for them; and the said Edmund, Davenport & Co. have authorized the firm of C. M. Fry & Co. to receive the same in their place and behalf, as aforesaid. They further say that the cargo claimed does, and if restored will, belong to the parties mentioned, according to their rights and interests aforesaid, and that Charles Coleman & Co. are British subjects, residing at Rio de Janeiro, and that the firm of Edmund, Davenport & Co.—Robert Edmund, Isaac Davenport, jr., and James H. Blair—are all citizens of the United States." (Rec., pp. 6, 7.)

On the same day Charles M. Fry & Co., on behalf of themselves and Dunlop, Moncure & Co., filed a claim to 473 bags of coffee marked X, and 1,450 bags marked D. M., of the captured cargo, alleging that it was shipped at Rio Janeiro, consigned to the firm of Dunlop, Moncure & Co., consisting of James Dunlop, Henry W. Moncure, and Thomas W. McCance, citizens of the United States; that at the time of the arrival of the captured vessel at New York they (Dunlop, Moncure & Co.) were liable to the claimants, Fry & Co., of New York, in the sum of $35,326 and upwards, for acceptances and advances of money, and that Fry & Co. were directed and authorized to receive the said coffee and take charge of and sell the same, and apply the proceeds thereof, so far as needed, towards the payment of their demand, and to hold the surplus for the account of Dunlop, Moncure & Co., and that said coffee, if restored, would belong to the claimants, Fry & Co., on account of themselves and Dunlop, Moncure & Co. (Rec., p. 8.)

On the application of the claimants, Fry & Co., the court ordered that the cargo, consisting of 473 bags of coffee marked X, 1,450 bags of coffee marked D. M., 1,529 bags of coffee marked E. D., and ten half barrels of tapioca, be unladen and appraised, for delivery to the claimants on giving bail therefor. (Rec., p. 10.) On the 30th of July, 1861, the appraiser reported the appraisement of the cargo, as follows: 3,452 bags of Rio coffee at $69,040, and ten half barrels of tapioca at $140—in all, $69,180; and the claimants having filed stipulations, the cargo was ordered to be delivered to them. (Rec., pp. 12, 13.)

The vessel was appraised at $6,300, (Rec., pp. 16, 17,) and sold by order of the court for $8,150. (Rec., p. 67.)

On the 1st of August, 1863, the court condemned the vessel and cargo as lawful prize of war, and ordered that the stipulators pay into the registry of the court the sum of $69,180, the appraised value of the cargo bonded by them. (Rec., p. 67.)

Fry & Co. appealed to this court from so much of this decree as condemned the 473 bags of coffee marked X, and 1,450 bags of coffee marked D. M., and also from so much of the decree as condemned 1,529 bags of coffee and ten half barrels of tapioca claimed by them on behalf of Charles Coleman and others. (Rec., pp. 67–72.)

No appeal was taken from that part of the decree which condemned the vessel.

The only questions before this court are therefore those raised on the claims of C. M. Fry & Co., of New York, to the coffee and tapioca consigned to Edmund, Davenport & Co., and the coffee consigned to Dunlop, Moncure & Co., as stated in those claims.

The testimony discloses the following facts:

The Sally Magee was owned by residents of Richmond, Va., and was engaged in trade between that port and Rio Janeiro, carrying principally flour on her outward, and coffee on her return voyages. (Rec., p. 19.)

Edmund, Davenport & Co. owned one-half of her, and that firm and Dunlop, Moncure & Co. resided and did business in Richmond. (Rec., pp. 20, 36.)

The vessel sailed from Richmond for Rio Janeiro in January, 1861, with a cargo shipped by Edmund, Davenport & Co. to Charles Coleman & Co., or their assigns, consisting of flour and domestics, of which 1,485 barrels and 250 half barrels were marked on the bill of lading, Dunlop, Moncure & Co. (Rec., p. 32.)

She left Rio Janeiro on the 12th of May, 1861, on her return voyage, with a cargo as follows:

1,529 bags of coffee and 10 half barrels of tapioca, shipped by Charles Coleman & Co. at Rio Janeiro, to be delivered at the port of Richmond to Edmund, Davenport & Co., or their assigns. (Bills of lading C and E, Rec., pp. 32, 33; manifest, Rec., p. 35.)

1,450 bags of coffee, shipped by Charles Coleman & Co. at Rio Janeiro, to be delivered at the port of Richmond to Dunlop, Moncure & Co., or their assigns. (Bill of lading D, Rec., p. 32; manifest, Rec., p. 35.)

473 bags of coffee, shipped by John Moore & Co, of Rio de Janeiro, to be delivered at the port of Richmond to Dunlop, Moncure & Co., or their assigns. (Bill of lading A, Rec., p. 31; manifest, p. 35.)

The vessel was captured on the 26th of June, 1861, about twelve miles southeast of Cape Henry, whilst on her way to Richmond. Her master and mate were Virginians, and all the rest of the crew were negroes except one man shipped at Rio Janeiro. (Rec., pp. 18, 19.)

Although the blockade of the ports of Virginia was then in full force, she had no notice of it at the time of capture, and the condemnation of the vessel and cargo was neither asked nor decreed on the ground of attempt to break the blockade. Both were condemned as enemy property.

1. VESSEL AND CARGO ENEMY PROPERTY.

That Edmund, Davenport & Co., and Dunlop, Moncure & Co., were, at the date of this capture, public enemies of the United States, and that their property, found on the high seas, was lawfully subject to capture as prize of war by the armed ships of the United States, will not be questioned since the decision of this court in "THE PRIZE CASES." (2 Black, 635, and in subsequent cases.)

The only question is, whether the cargo was, when captured, so far their property that the belligerent right of capture attached to it.

The shipment by Edmund, Davenport & Co., for themselves and for Dunlop, Moncure & Co., of flour and domestic goods for the outward voyage of the Richmond vessel, to Charles Coleman & Co., at Rio Janeiro, and the shipment by the Rio Janeiro consignees of that cargo, to its Richmond consignors of coffee and tapioca in return, raises a strong presumption of fact, which, in the absence of proof to the contrary, the law will accept as conclusive that the return cargo was purchased with the proceeds of the outward cargo, and was the sole property of its consignees at Richmond.

This reasonable presumption is strengthened by the facts that the voyage began and was to end at Richmond, and that the vessel was owned at that port, in part, by one of the consignees.

It is confirmed by the fact that neither Coleman & Co. nor Moore & Co., the Rio Janeiro shippers, who are neutrals, make claim to any interest in any part of the cargo. If either of these houses believed itself to have the slightest interest in the portion of the cargo it shipped, it is quite incredible that it should have failed to appear in the district court and have left its rights to be determined on a claim made by the authority of an enemy.

The claim of Fry & Co. to that portion of the cargo consigned to Dunlop, Moncure & Co. distinctly admits that it was the property of the latter house, since Fry & Co. rest their right to it on the ground that Dunlop, Moncure & Co. owed

them $35,326, and that they were authorized to receive and sell it in payment of that debt. This assumes that Dunlop, Moncure & Co., and not the consignors, were the owners of it.

So also the claim of Fry & Co. to that portion of the cargo consigned to Edmund, Davenport & Co. admits that Coleman & Co., "as proctors and commission merchants," purchased and shipped it for the account and to the consignment of Edmund, Davenport & Co., by the direction of the latter house. And the authority by which Fry & Co. claim to receive it is, not that of the shippers, but that of Edmund, Davenport & Co. The whole cargo was, therefore, the property of the two enemy houses at Richmond, or Fry & Co. have no standing in the case whatever. They represent those houses only, and the Rio Janeiro shippers are not represented at all. A decree recognizing the right of Fry & Co. to the cargo is a decree of restitution to the Richmond houses.

But apart from these facts, which raise a presumption that the captured cargo was owned by the enemy houses at Richmond, the rule of law is well settled that, in time of war, goods shipped to an enemy consignee, *as soon as shipped*, vest in the enemy consignee, and the captor has a right to seize and convert them to his own use; "for he, having all the rights that belong to his enemy, is authorized to have his taking possession considered as equivalent to an actual delivery to his enemy; and the shipper who put them on board during a time of war must be presumed to know the rule, and to secure himself, in his agreement with the consignee, against the contingence of any loss to himself that can arise from capture. In other words, he is a mere insurer against sea-risk, and he has nothing to do with the case of capture, the loss of which falls entirely on the consignee." (Sir Wm. Scott, in The Packet de Bilboa, 2 Rob., 133;) see, also, The Sally, (3 Rob., 300;) The Vrow Margaretha, (1 Rob., 339;) The Anna Catharina, (4 Rob., 107; 5 Rob., 161;) The Mary and Susan, (1 Wheat., 25.)

The general rule in time of peace is, that a cargo becomes

the property of the consignees from the time it is laden on board the ship and the bills of lading are signed. "The ordinary state of commerce," says Sir Wm. Scott in The Packet de Bilboa, 2 Rob., 134, "is that goods ordered and delivered to the master are considered as delivered to the consignee, whose agent the master is in this respect."

Prima facie the consignee of goods under a bill of lading has the legal title, and a beneficial interest in the goods. Lawrence *vs.* Minturn, (17 How., 100,) and cases cited by Mr. Justice Curtis. See also Grove *vs.* Brien, (8 How., 429,) and cases cited by Mr. Justice Nelson. Fitzhugh *vs.* Winans, (9 New York, 5 Selden, 562;) McKinly *vs.* Morris, (21 How., 355;) The Merrimac, (8 Cranch, 317.)

Upon the facts, and legal principles applicable thereto, the conclusion is inevitable that the whole cargo was owned, as designated in the bills of lading and manifest, by the two enemy houses at Richmond.

But Fry & Co. found their intervention upon a supposed equity growing out of their relations with those houses.

1st. They claim the goods consigned to Edmund, Davenport & Co. on the ground that Coleman & Co. had been directed by them to purchase the coffee, if procurable, at not over ten cents and a half per pound, and that Coleman & Co. having shipped it, and the invoice showing that the purchase was not made at or within the limit of price, Edmund, Davenport & Co., for that cause, refused to receive the same as purchased for their account, or otherwise than on the account of the shippers, Coleman & Co., and as agents of necessity for them. The claimants also state that they claim to receive the coffee by *the authority of Edmund, Davenport & Co.*, and in *their place and behalf.*

Since, then, the claimants represent Edmund, Davenport & Co., the enemy consignees, and not Coleman & Co., the neutral consignors, the question here is solely between the captors and the enemy consignees. As we have seen, Coleman & Co. are not in court, either in person or by representative; it is

simply an attempt of the enemy consignees to transfer the captured property from the captors, not to the neutral consignors, but to themselves, and this they try to do by repudiating the purchase made for them by the consignors. The coffee was shipped to them as owners, not as agents. To deny that they owned it on the ground that the consignors violated orders in purchasing it, is to deny all right to its possession. For their right to receive it depends exclusively upon the terms of the contract under which it was shipped, and by that contract they were its owners. Repudiating that contract and denying their ownership, they could only claim a right to receive it as agents of Coleman & Co., by showing the assent of Coleman & Co. to the new relation, and that assent has not been shown. Without proof the court will not assume that Coleman & Co. concede to them a relation of agent which is based on an asserted violation of their orders. The allegation of the claimants, that Edmund, Davenport & Co. had no title to the coffee, therefore, utterly destroys their right to receive it at all.

But the allegation is not sustained. We have seen that the coffee was probably purchased with their funds. The claim admits that it was purchased by their orders and shipped to them as their property. This vested the title in them. (See cases *supra*.)

If any right existed to repudiate the purchase, *it had not been exercised when the capture was made.* At that time the proprietary right was in Edmund, Davenport & Co., and not in Coleman & Co. By well-settled law the captors, by the fact of capture, succeeded to the proprietary rights of the enemy house; and even if a right to repudiate the purchase existed unexercised at the date of the capture, Edmund, Davenport & Co. could not exercise it after that date.

It is clear the purchase had not been repudiated before that the capture. The consignment had been regularly made to Edmund, Davenport & Co.; the goods received on board their ship; the bills of lading had been executed, and the vessel was on its

way in regular course of its declared voyage to deliver the goods at their places of business. Nothing in the voyage or on the ship's papers could have raised a doubt that the coffee was their property. The fact that it was proceeding according to its consignment for delivery at Richmond, is itself conclusive that the purchase had not been repudiated.

The claim of Fry & Co. carefully avoids stating *when* Edmund, Davenport & Co. refused to receive the coffee as purchased for their account. If they had so informed Coleman & Co. before the capture, we may safely presume that their representatives would have so stated in the claim.

But if the coffee had reached Richmond without capture, it would have been received by its consignees. This will hardly be denied, since they now seek to receive it through Fry & Co. If, then, they had received it at Richmond, it would have been received as their own property; for the fact of accepting it according to its consignment would have bound them to the purchase, and operated as a ratification of the act of Coleman & Co. They could not then have repudiated the purchase, and no court of justice would have listened to the excuse that they had received, as agents of the shippers, goods which had been shipped to them as owners. The Tobago, (5 Rob., 222.)

The claim of a right to reject the goods for violation of orders in the purchase, would not, therefore, have been valid even in a controversy between Edmund, Davenport & Co., and Coleman & Co. Still less can it be valid against the captors. It has not even the force of a secret lien, which the prize courts refuse to recognize. (See authorities hereafter.)

2. Fry & Co. claim the coffee consigned to Dunlop, Moncure & Co., on the ground that that firm owed them $35,326 for acceptances and advances of money made and agreed to be made, and that they (Fry & Co.) were directed and authorized to receive, and take charge of, and sell the same, and apply the proceeds thereof, so far as needed, to pay their debt, and hold the surplus for account of Dunlop, Moncure & Co.

It is not alleged that this authority and direction was given to Fry & Co. before the capture. That it was given after the ship and cargo were sent to New York for adjudication is shown by the fact that the consignment was directly to the enemy house at Richmond, and that the vessel was proceeding thereto for delivery of cargo.

It is not pretended that the bills of lading, or any other ship's papers, contained any indorsement of this portion of the cargo to Fry & Co., or that notice of any such claim as that now made was given, or could have been given, to the captors at the time of capture.

This claim is simply an afterthought, by which the enemy house seeks to prevent the captors from enforcing their right to the captured cargo, by appropriating it to a creditor in payment of their debt. It has not even the foundation of an equitable lien to rest on.

Authority can hardly be needed to show that such a claim can have no weight in a prize court against the rights of the captors.

But the following cases are referred to as showing that liens, having far more foundation than that on which the claims in this case rest, are ineffectual against the rights of captors.

In The Marianna, (6 Rob., 24,) the ship had been sold as an American vessel to a Spanish merchant, and was captured as a Spanish (enemy) vessel. The former American owner claimed her in virtue of a lien said to have been retained on her for the unpaid purchase-money. Sir Wm. Scott said, "Captors are supposed to lay their hands on the gross tangible property, on which there may be many just claims outstanding between other parties, which can have no operation as to them. If such a rule did not exist, it would be quite impossible for captors to know upon what grounds they were proceeding to make any seizure. The fairest and most credible documents, declaring the property to belong to the enemy, would only serve to mislead them, if such documents were liable to be overruled by liens which could not in any manner come to their knowledge. It would be equally impossible for the

court, which has to decide upon the question of property, to admit such considerations."

In The Tobago, (5 Rob., 218,) where a claim was made by a British merchant for the interest of a bottomry bond, executed to him by the master of the ship, which was French, previous to hostilities, the court refused to sustain the claim, although conceding that it was a contract which, under other circumstances, deserved to be regarded with great attention and tenderness. But Sir William Scott held, that since the bond conferred on the person who advanced the money and took that security *no property in the vessel*, but *a mere right of action*, there could be no change of national character, and the captor did not take the vessel *cum onere*, as he would where the *onus* was immediately and visibly incumbent upon it. He adds: "It is very obvious that claims of such a nature may be so framed as that no powers belonging to this court can enable it to examine them with effect. They are private contracts passing between parties who may have an interest in colluding. The captor has no access whatever to the original private understanding of the parties in forming such contracts; and it is, therefore, unfit that he should be affected by them. His rights of capture act upon the property without regard to the secret liens possessed by third parties." He concludes by showing that the captor's rights operate on no such liens held by an enemy on neutral property, and that the consequence of allowing these liens on enemy property would be that the captor would have neutral liens set up to defeat his claims on hostile property, whilst he could never get the benefit of hostile liens on neutral property. The court, therefore, excludes all consideration of liens or incumbrances of this species.

See also The Josephine, (4 Rob., 25,) The Aurora, (4 Rob., 218,) The Carolina, (1 Rob., 305.)

These principles were affirmed by this court in The Francis, (8 Cranch, 418,) where it was declared that "cases of liens created by the mere private contract of individuals, depending on the different laws of different countries, are not allowed,

because of the difficulties which would arise in deciding upon them, and the door which would be open to fraud."

Chancellor Kent, referring to the rule which invalidates transfers from belligerents to neutrals made during or in contemplation of war, as affording exemption from liability to confiscation on capture, says: "Such agreements, if they could operate, would go to cover all belligerent property while passing between a belligerent and neutral country, since the risk of capture would be laid alternately on the consignor or consignee, as the neutral factor should happen to stand in the one or the other of these relations." Again, he says: "These principles of the English admiralty have been explicitly recognized and acted upon by the prize courts of the United States. The great principles of national law were held to require that, in war, enemy's property should not change its hostile character *in transitu*, and that no secret liens, *no future election*, no private contracts looking to future events, should be able to cover private property while sailing on the ocean. Captors disregard all equitable liens on enemy's property, and lay their hands on the gross tangible property, and rely on the simple title in the name and possession of the enemy. If they were to open the door to equitable claims, there would be no end to discussion and imposition, and the simplicity and celerity of proceedings in prize courts would be lost." (1 Kent's Com., 94.)

"The cases," says Mr. Justice Story in The Ann Green, (1 Gall., 289,) "are, I think, settled upon just principles that decide that, in time of war, property shall not be permitted to change character in its transit; nor shall property consigned, to become the property of the enemy on arrival, be protected by the neutrality of the shipper. Such contracts, however valid in time of peace, are considered, if made in war or in contemplation of war, as infringements of belligerent rights, and calculated to introduce the grossest frauds. In fact, if they could prevail, not a single bale of enemy's goods would be found upon the ocean."

See also The St. José Indiano, (1 Wheat., 208,) and opinion of Sprague, Justice, on the claim of John L. Phipps & Co. in The Amy Warwick, (Upton's Prize, 156, 3d ed.)

On every ground the decree of the district court condemning the cargo of the Sally Magee should be affirmed.

JAMES SPEED,
Attorney General.
TITIAN J. COFFEY,
Special Counsel for United States.

DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, JULY TERM, 1863.

THE UNITED STATES
vs.
THE BARK SALLY MAGEE, TACKLE AND CARGO.

AUGUST 1, 1863.

BETTS, J.—The above vessel and cargo were captured, as prize, at sea, off Cape Henry, June 26, 1861, by the United States ship-of-war Quaker City, and sent to this port for adjudication.

A libel was filed against the prize, July 9, thereafter, in which were set forth, under special allegations, various causes of seizure amounting to confiscable offences according to public law.

Three several claims were interposed thereto by the same proctor, July 23, 1861, in which, on the accompanying test oaths, it is attempted to raise particular issues of pleading in the suit.

1. Alexander Soule intervened, as master of the vessel, on behalf of David Currie, William Currie, George Allen, Isaac Davenport, jr., Robert Edmonds, and James H. Blair, as owners of the vessel, her tackle and furniture, averring that "they were citizens of *the United States of America*"—not disclosing the fact that they were resident traders in Richmond, Virginia, an insurrectionary State, then in open rebellion and war against the United States, although the master attaches his test oath to the claim, asserting his knowledge of the ownership and citizenship of the claimants.

2. Charles M. Fry, Overton Price, and Chapman J. Leigh intervened, on behalf of themselves and Dunlop, Moncure & Co., and claim 473 bags of coffee marked X, and 1,450 bags marked D. M., of the said cargo, on the allegation, in substance, that the consignment, made on the voyage, to Dunlop, Moncure & Co., the last-mentioned firm, was, on arrival of the said vessel as prize, liable to the claimants in the sum

of $35,326 and upwards for acceptances and advances of money agreed to be made, and actually made in good faith; and that the claimants were directed and authorized to receive the said coffee, and take charge of and sell the same, and apply the proceeds thereof, so far as needed, towards the payment of their own demand, and to hold the surplus for account of Dunlop, Moncure & Co. The test oath to this claim was made by Overton M. Price, one of the claimants.

3. The same claimants intervened and filed a further claim, in the name of C. M. Fry & Co., to 1,529 bags of coffee marked E. D. and 10 barrels of tapioca, part of the cargo of the vessel, and allege their right and title to the coffee and tapioca to have thus accrued: "that the firm of Charles Coleman & Co., of Rio Janeiro, were directed, as factors and commission merchants there residing, to purchase and ship the merchandise above specified for the account and to the consignment of Edmund, Davenport & Co., but that by its invoice it appearing that the purchase was not made at or within the limits to its price, the said Davenport & Co. refused it as purchasers, or otherwise than on account of the shippers, Charles Coleman & Co., and Davenport & Co. authorized the claimants to receive the same in their place and behalf; that the firm of Coleman & Co. is composed of subjects of the Queen of England, residents in Rio Janeiro, and "that of Davenport & Co. of citizens of the United States."

The test oath to the claim is made by Overton M. Price, one of the claimants, who swears to the residence and citizenship of the respective parties from his own knowledge, excepting that no others than his own firm reside within this district, and adds he believes, from the correspondence of the parties, the other facts to be true. But the deponent omits to state, what he must necessarily have ascertained from the correspondence, that the firm of Davenport & Co. were citizens and residents of Virginia, an insurrectionary State.

It appears from the ship's papesr, the proofs taken *in preparatorio*, and the oath on the ship's registry, that the vessel was

built at Baltimore in 1857, and was registered in the port and district of Richmond, in Virginia, on the 5th of August, 1857, in the names of David Currie, William Currie, George W. Allen, Robert Edmonds, Isaac Davenport, jr., and James H. Blair, all of Richmond aforesaid, partners, her only owners, and on the oath of one of the said owners.

It was admitted on the hearing, by both parties, that the vessel was despatched from Richmond, on the outward voyage in question, January 2, 1861, laden with a cargo of American produce, shipped by Davenport & Co. of that place, (Dunlop, Moncure & Co., of the same place, being in part interested in the same shipment and the bill of lading therefor,) consigned by Davenport & Co. to Charles Coleman & Co., of Rio Janeiro.

The vessel took in her return cargo at Rio, May 10, 1861, bound to Richmond; the cargo was consigned, in part, by Coleman & Co. to Dunlop, Moncure & Co., and the residue to Davenport & Co., at Richmond, or their assigns, he or they paying freight, and with no other condition or reservation annexed thereto. The transaction accordingly appears, upon the face of the ship's papers, to be a trading between two firms resident in Richmond, Virginia, and another in Rio Janeiro, by the consignment of domestic products by the Richmond houses to Coleman & Co., in Rio, and the transmission back by the latter of the proceeds thereof in native products of the country of those consignees.

The vessel sailed on her outward voyage before the war commenced, and she returned and was captured off our coast without previous knowledge or notice of the state of war or blockade of the port of Richmond, to which she was destined and sailing.

The defence in the pleadings was put in with a view to contest, on the merits, the cardinal questions then pending in litigation in relation to the validity and effect of the war measures of the government, or the lawful authority of the judiciary therein, under the existing state of rebellion; which matters have since been determined by the Supreme Court of the

United States in the case of The Hiawatha, and other vessels, against the United States. (2 Black R.)

The judgment of the court in that case determined that the United States government, in this war, is clothed with all the rights conferred by international law upon separate nationalities in a state of public hostilities with each other. That case settled the further point presented in this, and adjudges that a ship, and the cargo on board her, being the property of residents in an insurrectionary State of the United States, was enemy's property, subject, in the federal courts, to condemnation on capture at sea as lawful prize.

There is no just ground of exception to the sufficiency of the allegations in the libel. It is needlessly special and diffuse, and would have adequately complied with the rules of pleading in prize causes had it contained no further averments than that the seized property is prize of war. (The Adeline, 9 Cranch, 244; The Fortuna, 1 Dodson, 82; Halleck, National Law, ch. 31, sec. 22.) No prejudice is therefore worked to the claimants if the libellants fail to prove with exactness all the allegations spread out upon the libel; or if the manner of pleading the offence be faulty in point of form, since the averments denote the seizure at sea of the vessel and cargo as prize of war by a public ship of the United States. (2 Wheat., App., 19.)

The vessel, at the time of capture, was approaching the port of Richmond, free of all culpable intentions, inasmuch as she was without warning or knowledge of the existing blockade, and her condemnation is pursued by the government solely upon the ground that both ship and cargo were enemy property. The claimants secure no exemption for the prize by means of the character they so reservedly and guardedly apply to themselves of "*citizens of the United States*," the actual owners of the property seized being domiciled traders in Virginia; and the Supreme Court, in their late decision above referred to, declare that citizens of the United States, in rebellion and war against their country, are enemies. (Ibid.)

The public are not yet in possession of the full judgment of the Supreme Court, exhibiting all the facts and doctrines it establishes in the various particular cases covered by that decision; but it is believed the coming publication of the official report of the cases combined in the decision will evince that it also disposes of the main points involved in this one.

So far as the evidence before the court fixes the interest and posture of these claimants in respect to the cargo, they stand only as creditors of the consignees, Dunlop, Moncure & Co., having no lien on the property as against them even, and no demand subsisting against the consignment to Davenport & Co., or those assignees personally, or the consignors of the cargo, Coleman & Co.

In contemplation of law the cargo became the property of the consignees from the time of its being laden on board the ship, and the execution of the bills of lading therefor at Rio Janeiro, May 10, 1861. This is a settled doctrine of the American courts of law, admiralty, and correlatively of prize courts. (Grove *vs.* Brien, 8 How. R., 439; Fitzhugh *vs.* Winans, (in error,) 9 New York, 5 Selden R., 562; Lawrence *vs.* Minturn, 17 How. R., 100, 107; McKinley *vs.* Morris, 21 How., 355; The Merrimac, 8 Cranch, 317.)

The intervention of the claimants rests upon a supposed right or equity in them to counteract the operation of that rule, and to rescue these consignments from its effect by the interposition of tacit priorities possessed by them.

There is scarcely a principle more unquestionably recognized in prize procedures than that belligerent captors are discharged of liens or equities of neutral creditors resting upon the effects of an enemy seized at sea. (Upton's Maritime Law, 2d edition, and cases collated, 153, 158.)

The ship's papers, or proofs *in preparatorio*, afford no evidence that the consignees did not acquire full title to this cargo. It is proved that the existence of the war was not known until the capture of the ship and cargo had been consummated, and the suggestion in the claim, that Davenport & Co. refused to

accept the consignment made to them, and authorized the claimants to receive it, must necessarily have been a transaction subsequent to the actual seizure of the goods as prize, because the necessity or possible availableness of such procedure could be in no way known to the parties until the capture was actually perfected.

It cannot be implied that a transaction of that character could divest the ownership vested by law in the consignees originally, or impair the validity of a prize capture. Such capture would acquire a force and privilege of no less vigor than the arrest of property on an execution against the consignees in favor of a judgment creditor. A voluntary shifting of apparent ownership of property for such purpose could not be sustained, except upon very satisfactory evidence of *bona fides* and justness in the operation.

The allegations in the claims and test oaths must, therefore, be accepted as the legal construction of their rights adopted by the claimants, and not the result of any evidence in the case proving a lawful change of interests in the cargo after the commencement of the voyage.

The acts of Congress (12 Stat. at Large, 762; Ib., 255 and 319) cited by the claimants relate to confiscations for interterritorial offences, and not to captures at sea of prize of war, and supply no provisions applicable to this suit.

The cargo, upon the facts, became, therefore, stamped with the character of the consignees and the ship from the inception of the voyage, and could not, by subsequent interference of parties in the adventure, be so varied from that condition as to avoid belligerent rights attached to it. (The Mary and Susan, 1 Wheat., 25.)

I am of opinion, accordingly, upon the whole case, that the facts and law appertaining to it support the prosecution. (The Aurora, 4 Ch. Rob., 180; The José Indiano, 1 Wheat., 208.)

A decree of condemnation and forfeiture of the vessel and cargo is therefore ordered.

The counsel for the claimants, in the written brief submitted

by them, state, "If any doubt is entertained by the court as to the truth and good faith of the claimants' claim, further proof will set it at rest."

The judgment of the court was publicly pronounced August 1, 1863. August 10, thereafter, the claimants filed their appeal from the judgment to the Supreme Court without previous application to this court for leave to give further proof in the suit.

1035

SUPREME COURT OF THE UNITED STATES.

THE UNITED STATES,
agst. No. 121.
THE BARK SALLY MAGEE and cargo.

BRIEF on behalf of the part of the cargo, claimed for C. Coleman & Co. by C. M. Fry & Co.

By the documents on board the prize, as returned by Lieutenant Bryant, as having been delivered by the capturing officer (whose oath is not produced), and by the examinations in preparatorio, the following is the history of the voyage; and in connexion with the claim and test affidavit, is the state of the title to this part of the cargo.

1. The vessel in and previous to January, 1861, was engaged in the trade beween Richmond and South America, chiefly with Rio, in Brazil. (*Int.* 11 *and* 12.)

The course of the trade was, shipment from Richmond of flour and domestic manufactures to Brazil, and the shipment of coffee, from Rio to Richmond. *Int.* 11, 12 *and* 13, *fol.* 58, 70 *and* 83.)

2. The vessel was owned by David Currie, William Currie, and George Allen, in varying shares as to one moiety, and Edward Davenport & Co., as to the other moiety; all the parties residing at Richmond. (*Int.* 14, *fols.* 39, 71, *and* 84; *Reg. M., fol.* 104.)

3 The vessel sailed from Richmond for Rio de Janeiro in Brazil, on the 2d January, 1861, with a cargo of flour and domestic goods; all shipped by Edmond Davenport & Co. of Richmond, consigned to C. Coleman & Co. of Rio, British merchants at that port. (*Bill of Lading, B., fol.* 94.)

4. She took in a return cargo of coffee and a small parcel of tapioca, between the 9th and 12th May, 1861, for which four bills of lading were given, Three of these were taken by C. Coleman & Co. of Rio, as consignors for separate portions of the cargo, deliverable at Richmond; two consignments to Edmond Davenport & Co., and one to Dunlop, Moncure & Co. of Richmond.

The bill of lading for the other parcel, was by James Moore & Co. of Rio, as consignors, also to the order of Dunlop, Moncure & Co.

On the consignments to Dunlop, Moncure & Co., the freight to Richmond was fixed at 60 cents per bag; on those to Edmond Davenport & Co., it was expressed to be payable at the rate, per agreement, in Richmond. (*Bills of Lading, A, fol.* 94; *C, fol.* 94; *D, fol.* 95; *E, fol.* 95. *Manifest at Rio, May 8th*, 1861, *G, fol.* 96; *K, fol.* 100.)

5. The vessel, with the cargo, sailed from Rio, on the 12th May, 1861. (*Int.* 12, *fols.* 58, 70 *and* 84. *Log Book, fol.* 113.)

On the 13th May, she spoke the "Amy Warwick" from Richmond, then forty days out. (*Log Book, May* 13, *fol.* 113,) thus making the departure of that vessel from Richmond date from April 2d.

No other vessels were spoken by the "Sally Magee." (*Log Book, fol.* 113 *to* 136. *Int.* 23, *fol.* 23.)

6. The examinations in preparatorio all show, that the vessel sailed in ignorance of any war, or of any blockade, and had no notice or warning, either of hostility or blockade, or of any illegality at or before her capture. (*Int.* 21, 22, 24, 41, 49, *fols.* 60, 61, 74 and 77.)

7. On the 26th June, 1861, then being forty-five days out from Rio, and about twelve miles South-east of Cape Henry, she was captured and carried into Hampton Roads. (*Int.* 3, *fols.* 56, 67 *and* 81. *Log Book, fol.* 136.)

She was on the following day sent by the Commander of the Fleet, under charge of a prize master, to New-York, where she arrived and was immediately libelled and proceeded against as prize on the 9th July, 1861

8. On the return of the monitiou, on the 23d July, 1861, claims duly accompanied with test affidavits, were put in for C. Coleman & Co., by C. M. Fry & Co., agents at New-York, and by other claimants. (*Fols.* 18, 22.)

9. The *claim* on behalf of *C. Coleman & Co.* to the coffee consigned by them to Edmond Davenport & Co., stated

That Coleman & Co. as Factors and Commission Merchants, at Rio, had been directed to purchase and ship for the account of Edmond Davenport & Co., coffee, *if procurable, at not over ten and a half cents per lb.*

That C. Coleman & Co. made a shipment of coffee and tapioca to the consignment of Edmond Davenport & Co., in the said vessel.

But that by the invoice, it appeared that *the purchase was not made within the said limit of price.*

For which cause Edmond Davenport & Co. refused to receive the same as purchased for their account, or otherwise than on account of the shippers and as agents of necessity for them.

And have authorized C. M. Fry & Co. to receive the same on behalf of C. Coleman & Co.

That Charles Coleman and James R. Jackson, are subjects of the Queen of Great Britain, residing at Rio de Janeiro, in Brazil, to whom, in case of restitution, the shipment will belong.

That Edmond Davenport & Co. are citizens of the United States.

10. The property has been bonded and the claim heard in the District Court of New-York, before the Hon. S. R. Betts, the District Judge, in July, 1863. (*Fol.* 54.) And in August following, this consignment, with the vessel and rest of the cargo, were condemned as prize. (*Fol.* 137.)

An appeal was taken on behalf of C. Coleman & Co. from this decree to the Supreme Court, under the Act of March 3, 1863. § 7. (Appeal *fols.* 141–149.) Other appeals were also taken as to the other claims, but that on behalf of C. Coleman & Co. will be separately considered.

PRELIMINARY CONSIDERATIONS.

It is thought convenient to collect the following general principles which apply to the consideration of this claim, taken from undisputed authorities. *The ship Resolution*, (2 *Dall. R.* 19.)

a. "A question is made, on whom lies the *onus probandi;* we think on the captors. There can be no condemnation without proof, that the ship or cargo is prize, and it cannot be expected that the persons who contest the capture, will produce that proof. (*Ship Resolution*, 2 *Dall. R.* 22.)

"On the question of prize or no prize, what evidence does the law of nations admit for the determination of it? * * * *

"Hence it is that every commercial country has directed by its laws, that its ships shall be furnished with a set of papers called ships' papers; and this criterion, the law of nations adopts in time of war, to distinguish the property of different powers, when found at sea; not indeed as conclusive, but presumptive evidence only. Bills of lading, letters of correspondence, and all other papers on board, which relate to the ship or cargo, are considered as *prima facie* evidence of the facts they speak. (*Id. p.* 23.)

"Such then, is the evidence which the law of nations admits, on a question of prize, and it is on this evidence that vessels, with their cargoes, are generally acquitted or condemned; and therefore, if in this case the papers on board affirm the ship and cargo to be such property as is not prize, there must be an acquittal, unless the captors are able by a contrariety of evidence to defeat the presumption which arises from the papers and can show just grounds of condemnation." (*Id. p.* 33, *ship Resolution and cargo*, 2 *Dall. R.* 19, *at pp.* 22 *and* 23, *&c.*) The statement in the note (2 *Wheaton, Appendix, p.* 23,) is not in accordance with the law as thus early settled.

b. "It is the duty of the prize master to deliver up to the District Judge all the papers and documents found on board, and at the same time make an affidavit that they are delivered up as taken without fraud, addition, subtraction, or embezzlement." (1 *Wheaton R.* 495. *Judge Story's Digest of Prize Practice.*)

In general the master and principal officers and some of the crew of the captured vessel should be brought in for examination." (*Id.* 494.)

c. "It is upon the ship's papers and depositions thus taken and transmitted that the cause is in the first instance to be tried. (*Id.* 498.)

"By the law of prize, the evidence to acquit or condemn, must in the first instance come from the papers and crew of the captured vessel." (*Id.* 409.)

d. "Where the justice of the case requires the admission of new evidence, that may always be obtained, except where by the rules of law or misconduct of the parties the right to further proof, has been forfeited." (*Id.* 499.)

But whether such further proof be necessary or admissible, can never be ascertained until the case has been fully heard upon the facts, and the law arising out of the facts already in evidence." *Id.* 499.)

e. "If a person wishes to procure the restitution of any property captured as prize, it is necessary that he should after the prize libel is filed, and at and before the returns of the monition thereon, or the time assigned for trial, enter his claim for such property before the proper court." (*Id.* 500.)

"The claim should be made by the parties interested, if present, or in their absence by the master of the ship, or some agent of the owners."

"The claim must be accompanied by an affidavit stating briefly the facts respecting the claim and its verity."

"This affidavit should be sworn to by the parties themselves, if within the jurisdiction."

"But if they are absent from the country, or at a very great distance from the place where the Court is held, the affidavit may be sworn to by an agent." (*Id.* 500.) 3 Phill Int. Law §463, 466, 470, 488

f. "Where further proof is admissible, it may, in the discretion of the Court, be by affidavits and other papers introduced without any formal allegations, or by way of plea and proof, where formal allegations are made by each party in the nature of special pleadings." (*Id.* 504.)

"The Court is in no case concluded by the original evidence, but may order further proof on a doubt arising from any cause whatever." (*Id.* 504.)

"The most ordinary cases of further proof are, where the cause appears doubtful on the original papers, and the answers to the standing interrogatories; and in such cases, if the parties have conducted themselves with good faith and the error or deficiency may be referred to honest ignorance or mistake, the Court will indulge them with time to supply the defects by the introduction of new evidence. (*Id.* 504).

h. And as to the force of the test affidavit, [see *The Adeline*, 9 *Cranch*, 286,] where the effect of the test affidavit is considered and dealt with as part of the proofs in the cause as to the proprietary interest.

Indeed, confined as it is, to the simple right of property, it must of necessity, as well as by established practice be the basis of decision in prize proceedings.

First.—The case is clear of all proof or ground of suspicion of any breach of blockade, or any contemplation thereof; and if the property claimed is to be condemned, such condemnation can only rest on the ground of enemy property.

1. At the time of sailing from Rio, May 12, 1861, it was not possible for any news or notice of the President's proclamation of 27th April, 1861 (fifteen days only before the sailing,) to have reached Rio, or to have been known, anticipated, or surmised.

2. The proof is complete, that no notice of any blockade was received by the ~~Mary Clinton~~, on the voyage towards Richmond.
The only vessel with which the ~~Mary Clinton~~ communicated, was the Amy Warwick from Richmond. This vessel was within one day's sail of Rio, when she met the ~~Mary Clinton~~, and of course must have left Richmond forty days before, that is, on or before the fourth day of April.

3. The ~~Mary Clinton~~ therefore was captured before any warning, and nothing is alleged as to her in violation of a blockade, in any sense notified to her.

(*See Wheaton on Captures*, 193, *pl.* 14. *Yeaton* v. *Fry*, 5 *Cranch R.*, 342.

4. Her capture, therefore, must rest only on enemy status of the claimant; it beomes entirely a proprietary question whether at the time of capture the cargo was the property of neutral or enemy.

Read "Sally Magee" for "Mary Clinton"

Second.—On the *claim of C. Coleman & Co.*, the neutral shippers of 1,529 bags of coffee, marked E, D, and 10 barrels of tapioca, claimed on behalf of Charles Coleman & Co., the neutral shippers.

I. 1. The national and neutral character of the shippers is without any impeachment. They were residents at Rio.

(*Int.* 16, *fol.* 60, *Bill of Lading E, fol.* 95. *Manifest G, fol.* 96. *Manifest K, fol.* 100. *The claim and test Affidavit, fol.* 18.)

2. There is nothing in any of the papers in the cause contrary to or inconsistent with the claim of C. Coleman & Co., residents of Rio, as neutral merchants.

3. The proprietary interest as set up in the claim and test affidavit, is ordinary, natural and conformable to all probability; and being affirmed by the sworn claim, should have been admitted as proof on the subject.

4. A foreign corespondent making a shipment on the order of his principal, but without the limits of the orders, does not vest the property in the principal without some act of adoption, or waiver

5. The doctrine has been uniform in the prize Courts, that although goods are ordered by a correspondent, but are subject to rejection by the principal, the property does not pass unless accepted.

(*The Merrimack*, 8 *Cranch*, 317, *p.* 320. *Kimmell & Albert's claim.*

Bailey and others, before the war of 1812, was known in England, being English subjects residing in England, purchased and shipped in England, goods on the order and for account of Kimmel & Albert, the claimants, residing in the United States. The invoice, bills of lading and letters of the shippers, all were of a consignment to the claimants at Baltimore; but they were accompanied with orders to the agents of the English house, to whom the invoices, &c. were inclosed, "if when you receive our invoices, "or bills of lading, a state of war should continue, it will be pro- "per for you not to deliver these goods until you have received "the amount of the invoices from the consignees in cash.

(*See the argument for the Captors, p.* 225.)

The judgment, (p. 328) by Marshall, condemned the goods as English, the condition interposed not having been waived by the shippers; and this, notwithstanding the title papers were in favor of the consignees—so here, the deviation from the orders to purchase, prevented the vesting of the property until the deviation had been adopted or waived.

(*The Francis, Boyer, Dunham & Randolph's claim*, 8 *Cranch*, 354.)

In this case a British agent in Great Britain, in orders given before the war, to purchase goods for the claimants, an American house in New-York, made purchases, but deviated from the orders, expressing, "I have exceeded in some articles and have sent you "others not ordered. I leave it with yourselves to take the whole "of the two shipments, or none at all, as you please." The bill of lading and invoice were expressed to be on account of Dunham & Randolph, the American consignees.

Marshall C. J, speaking of the consignment in excess of orders, says, "This then is a new proposition, on which Dunham & Ran- "dolph, the American correspondents, are at liberty to exercise "their discretion. They may accept or reject it, and until they do "accept it, the property must remain in (Thompson,) the enemy "shipper." So here it remained in the Brazilian shipper until the deviation from orders should have been accepted or waived.

The purchase having been rejected, the property remained that of the shippers, and being neutral, should not be condemned.

II. The claim and test affidavit, were sufficient.

1. The claimants at Rio could not be expected to verify the claim personally; the verification by an agent is all that can be asked. (*See ante pl. c.*)

The Richmond consignees from living in Virginia, could not be expected to make the verification.

2. The devolution of the rejected purchase to a competent agent, is in all respects proper, and the only way the claim could be put in

3. The test affidavit with the claim is sufficient.

The office of the test affidavit is not to supply the details of evidence, but to aver the simple fact of proprietary interest. The oath annexed is as efficient as any detail of circumstances or correspondence. The affidavit is always the summary proof, and until impeached, is decisive in prize proceedings.

4. There is no ground to doubt its truth, by reason of any want of statement in the bills of lading or papers, that the property is neutral. At the time of the last communication to Rio from the United States, April 4th, 1861, there was no war, blockade or contraband, which the ship's papers could refer to.

5. The correspondence between the parties could not embrace any letters from the consignees respecting this shipment.

6. The affidavit of the capturing officer does not show what papers in all were in the vessel when captured. The Flag Captain, (*Ludlow Case,*) received the ship's papers (*fols.* 92, 93,) on the capture. The prize master, Lt. BRYANT, only swears to the delivery of what he received. But it nowhere appears what letters, correspondence or documents, excepting those delivered by Lt. Bryant, were in the captured vessel. There were, probably, numerous letters enclosing documents, which are wholly unaccounted for by the captors.

The examinations in preparatorio affirm a full delivery to the captors of all documents, excluding the destruction of any by the master or crew; but it does not appear on part of the captors, that all which were delivered by the Flag Captain to the prize master, were all that were on board.

7. There is no ground of any suspicion of suppression or unfairness as to documents.

Int. 17, 18, 20, *fol.* 60, *fols.* 72, 73, 76.

Int. 31, 32, 35, *fol.* 62. See Captain's answer to 32d Int. "The "register, crew-list, articles, two manifests, four bills of lading, &c., "which I suppose are now in the hands of the prize commissioners."

8. On the claim, therefore, not impeached, and on the ship's papers, the coffee of C. Coleman & Co. should not have been condemned, but restored to the claimants.

9. The decree of condemnation precluded all claim to offer further proof. Until the decree, no further proof could be admitted, even if the matters alleged were material, or were capable of an explanation consistent with the right to restoration.

We rely on the cases cited for a reversal of the condemnation.

8 *Cranch*, 320, 328. *Id.*, 354.

Third.—Claim of *C M. Fry & Co., as creditors of Dunlop, Moncure & Co.* (*Fol.* 22.)

Allowing the doctrine of the Prize cases, (2 *Black*, 655,) that the residents of Richmond were enemies in the sense of the prize law; yet the

the Acts of Congress of March 3d, 1863, (*Acts of* 1863, *p.* 762,) in qualification of the Acts of July 13th, 1861, (*ch.* 3, *p.* 255,) and August 16th, 1861, (*ch.* 60, *p.* 319,) have introduced a new feature in the case.

1. The Act of 1863, (*ch.* 90, *p.* 762,) intentionally introduces a principle into prize condemnations novel and benignant.

By the doctrines of prize, a creditor having a mere lien, not being a direct proprietary interest accompanied with possession, can not be heard in a prize proceeding. Whatever be his right or merit, the captured property must be condemned.

2. But the Act of March, 1863, introduces the following provisions:

a. That *after condemnation* and before awarding the distribution of the proceeds of confiscated property, the Court shall provide for the payment out of the proceeds, of any *bona fide* claims by any loyal citizens intervening in the prize proceedings, which shall be duly established by evidence.

b. It expressly applies to ships, vessels, or other property, condemned in any proceeding by virtue of any law on the subject, namely, confiscation as enemy or rebel.

c. It applies to condemnations prior to its passage, as long as the proceeds have not been distributed, (analagous to the acts for the remission of revenue forfeitures, even after condemnation.)

(*United States* v. *Morris*, 10 *Wheaton*, *R.* 246.)

d. It excludes claimants (creditors) who have knowingly participated in the illegal use of the ship or property.

e. And extends only to claims which could be specifically enforced in a loyal State.

It is submitted that this act, as well from its direct provisions, as from its exceptions, should be largely construed in favor of creditors.

3. Also, that no condemnation creates any rights to interfere with the payment of any debts which could be specifically enforced; it overrides condemnations, and has the operation of an actual amnesty as to honest creditors.

4. The cases were numerous, if not indeed innumerable, where property became subject to condemnation during the rebellion, which, to have swept from honest creditors would have been most unjust and cruel.

5. The principle, the spirit of the act in all particulars, is as applicable to prize condemnations as to any others. In all cases alike, the property is forfeited to the United States; but subject to any provision of the laws they may enact.

6. The claim, of these creditors as alleged by them, is for actual advances, owing to the creditors at the arrival of the cargo; and that

they had been authorized to receive the cargo, and pay their debt out of its proceeds.

This created a specific lien; a transfer by the debtor to the creditor for the purpose of sale and payment of his debt. This is an actual assignment.

See Hosack v. *Rogers*, 18 *Wend. R.* 319. 8 *Paige R.* 229. 25 *Wend. R.* 313. *Cases cited in Hoyt* v. *Story*, 3 *Barbour, S. C. R.* 262. *Harris* v. *Schultz*, 40. *Barb, S. C. R.* 315. *United States* v. *Vaughan* 3 *Binney, R.* 400. *Lit* v. *Morris*, 4 *Simons, R.* 607.

Dickenson v. *Morrow*, 14 *Meeson & W.* 713.

Coote on Mortg. (*3d ed.*) 234 *and s.* 2 *Story, Eq. Jur.* § 1047.

7. The creditors therefore having intervened by their claim in the prize proceeding, are entitled to have it established by evidence as a lawful claim against this property and its proceeds.

And the fund now being undistributed and in this Court, an order should be made in behalf of these creditors, remanding the cause as to this claim, to have its merits established and adjudicated, and if found valid, paid out of the proceeds before distribution.

DANIEL LORD,

For Plaintiffs.

December 15th, 1865.